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WHO: The Office of the Federal Register.

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4. An introduction to the finding aids of the FR/CFR system.

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WHEN: February 19; at 9:00 a.m.
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Regulations and Standards for Inspection and Certification of Certain Agricultural Commodities and Their Products

AGENCY: Federal Grain Inspection Service, USDA.[1]

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is revising Subpart A of the Part 68 regulations under the Agricultural Marketing Act of 1946, as amended (Act), by completely rewriting and reorganizing these regulations. This rule will combine and consolidate compatible requirements, incorporate many procedures currently found in instructions, simplify overall language, conform certain provisions to present marketing practices, and remove definitions and provisions that are no longer necessary. In addition, FGIS is removing the requirement that all factor information determined during the course of an inspection be reported on an official certificate; establishing provisions for providing a retest service on nongraded commodities; permitting appeal inspection services to be performed on a new sample when insect fragments are present; and providing provisions in the regulations for applications, terminations, and surrendering of licenses issued by the Service.

EFFECTIVE DATE: April 11, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, RM, USDA, FGIS, P.O. Box 96454, Washington, DC 20090-6454, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

W. Kirk Miller, Administrator, FGIS, has determined that this final rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirement for small entities, and this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of commodities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and section 3504(h) of that Act, the information collection and recordkeeping requirements contained in this final rule have been either previously approved by OMB or have been submitted to OMB for approval.

Final Action

On December 24, 1985, FGIS proposed to revise Subpart A of the Part 68 regulations under the Act (50 FR 52469). It was proposed that the regulations be revised in their entirety by consolidating compatible provisions into a more logical order for clarity and by removing unnecessary language and provisions that are no longer needed. In addition, it was proposed that the requirement that all factor information determined during the course of an inspection be reported on the official certificate be eliminated; a provision for providing retest service for nongraded commodities be established; appeal inspection services to be performed on a new sample when insect fragments are present be permitted; and procedures for applications, terminations, and surrender of licenses issued by the Service be provided in the regulations.

Interested parties were invited to participate in the rulemaking process by submitting written comments on the proposed rule. During the 60-day comment period, a total of eight comments were received. Seven commentors either agreed with the proposal as written or did not oppose the proposed language or intent of the provisions. These commentors included commodity and processed commodity trade associations, a seed company, and associations representing elevators. Some of these commentors noted that the proposed changes would facilitate use of the regulations and would also facilitate the buying and selling of commodities. One commentor indicated that the proposal included changes that were responsive to the needs of the industry and would benefit the same.

Another commentor, a State department of agriculture, supported some of the proposal changes but believed that it would be ill-advised to remove the requirement that all factors for graded commodities for which an official determination is made be shown on the inspection certificate. The commentor was of the opinion that the lack of this information on the certificate would be deceptive and would prove to be an impediment to marketing.

The proposal contained a provision that would remove the requirement that any factor for graded commodities for which an official determination is made during the course of the inspection be shown on the inspection certificate. Various industry groups had indicated that the requirement to report factor information not requested by the buyer was not needed and confused both buyers and financial institutions. After reviewing industry concerns that reporting factor information not requested by the buyer may cause confusion in the marketplace, it was proposed that the requirement be removed. However, the requirement to show grade determining factors on all certificates for commodities graded below the highest quality grade would be retained. This information is generally desired by the industry. The provision would not prohibit applicants from obtaining specific factor

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

information, when requested. In addition, one commentor stated that the existing requirement was not only unnecessary but in some cases had impaired export sales. After reviewing all available information, FGIS believes that the revision will not be deceptive or prove to be an impediment to marketing as suggested by the commentor; but rather, the change to the regulations will address industry concerns regarding confusion in the marketplace. Accordingly, this final rule retains the proposed provision unchanged.

After reviewing the proposed rule, FGIS has determined that several miscellaneous changes were needed to clarify some provisions of the regulations. These changes include adding two new definitions, one for graded commodities and the other for nongraded commodities. Graded commodities are commodities for which the Service has promulgated standards under this Act and commodities which are tested by the Service at a field office or by a cooperator for specific physical factor using approved equipment and an inspector's interpretation of visual conditions. Nongraded commodities are processed commodities and nonprocessed commodities which are chemically tested for factors not included in the standards under this Act or the United States Grain Standards Act (7 U.S.C. 71 *et seq.*). These definitions will aid in understanding those provisions of the regulations in which these terms appear.

In proposed § 68.84, *Suspension or revocation of license*, summary suspensions would be authorized in cases of willfulness or those in which the public health, interest, or safety were involved. Licensees would be afforded an opportunity for a hearing before the license was finally suspended or revoked. In addition, proposed § 68.84 provided for procedures for other than summary actions wherein licensees would be first afforded an opportunity to achieve compliance before the Administrator could institute proceedings to suspend or revoke a license. This final rule changes the proposed section to provide that summary suspensions are authorized only in cases in which the public health, interest, or safety requires. Further, this final rule provides that except in cases of willfulness or in which the public health, interest, or safety requires, licensees would be first afforded an opportunity for compliance. These changes are made to better specify the basis for summary suspension actions.

The proposal included changes that renumbered and reformatted the sections of the regulations concerning fees but did not propose changes to the specific fees and charges. However, in the October 17, 1986, **Federal Register** (51 FR 36995), FGIS established a fee to cover the cost of performing milling yield in rough rice and brown rice for processing when requested as one single factor and a fee for total oil and free fatty acid analysis for brown rice for processing and milled rice. These two fees also appear in this final rule. In addition, this final rule clarifies Table 3—Laboratory Fees and Table 4—Hourly Rates to specifically reference original, retest, and appeal laboratory tests in Table 3 and to reference original and appeal implementation services in footnote 1 of Table 4. Laboratory test fees for retest results are the same as original and appeal fees.

FGIS has made for clarity and consistency between provisions other miscellaneous minor wording changes to the provisions in the regulations.

List of Subjects in 7 CFR Part 68

Administrative practice and procedure, Agricultural commodities, Rice.

For reasons set forth in the preamble, 7 CFR Part 68 is amended as follows:

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND THEIR PRODUCTS

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

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Subpart A is revised to read as follows:

Subpart A—Regulations

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Subpart A—Regulations

Definitions

§ 68.1 Meaning of terms.

(a) *Construction.* Words used in the singular form are considered to imply the plural and vice versa, as appropriate.

(b) *Definitions.* For the purpose of these regulations, unless the context requires otherwise, the following terms have the meanings given for them in this paragraph.

(1) *Act.* The Agricultural Marketing Act of 1946, as amended (secs. 202–208, 60 Stat. 1087, as amended, 7 U.S.C. 1621 *et seq.*).

(2) *Administrator.* The Administrator of the Federal Grain Inspection Service or any person to whom the Administrator's authority has been delegated.

(3) *Appeal inspection service.* A review by the Service of the results of an original inspection or retest inspection service.

(4) *Applicant.* An interested person who requests any inspection service with respect to a commodity.

(5) *Authorized inspector.* A Department employee authorized by the Administrator to inspect a commodity in accordance with the Act, regulations, standards, and instructions.

(6) *Board appeal inspection service.* A review by the Board of Appeals and Review of the results of an original inspection or appeal inspection service on graded commodities.

(7) *Board of Appeals and Review or Board.* The Board of Appeals and Review of the Service that performs Board appeal inspection services.

(8) *Business day.* The established field office working hours, any Monday through Friday that is not a holiday, or the working hours and days established by a cooperator.

(9) *Carrier.* A truck, trailer, truck/trailer(s) combination, railroad car, barge, ship, or other container used to transport bulk, sacked, or packaged commodity.

(10) *Commodity.* Agricultural commodities and products thereof that the Secretary has assigned to the Service for inspection under the Act, including but not limited to dry beans, grain, hops, lentils, oilseeds, dry peas, split peas, and rice.

(11) *Continuous inspection.* The conduct of inspection services in an approved plant where one or more official inspection personnel are present during the processing of a commodity to make-in-process examinations of the preparation, processing, packing, and warehousing of the commodity and to determine compliance with applicable sanitation requirements.

(12) *Contract service.* Any service performed under a contract between an applicant and the Service.

(13) *Contractor.* Any person who enters into a contract with the Service to perform specified inspection services.

(14) *Cooperator.* An agency or department of the Federal Government which has an interagency agreement or State agency which has a reimbursable agreement with the Service.

(15) *Cooperator inspection service.* The inspection service provided by a cooperator under the regulations. Under this service, inspection certificates are issued by the cooperator and all fees and charges are collected by the cooperator, except as provided in the agreement.

(16) *Department.* The United States Department of Agriculture.

(17) *Factor.* A quantified physical or chemical property identified in official standards, specifications, abstracts, contracts, or other documents whose measurement describes a specific quality of a commodity.

(18) *Field office.* An office of the Service designated to perform, monitor, or supervise inspection services.

(19) *Grade.* A grade designating a level of quality as defined in the commodity standards promulgated pursuant to the Act.

(20) *Graded commodity.* Commodities for which the Service has promulgated Standards under the Act and commodities which are tested by the Service at a field office or by a cooperator for specific physical factors using approved equipment and an inspector's interpretation of visual conditions.

(21) *Holiday.* The legal public holidays specified in paragraph (a) of section 6103, Title 5, of the United States Code (5 U.S.C. 6103(a)) and any other day declared to be a holiday by Federal Statute or Executive Order. Under section 6103 and Executive Order 10357, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be considered to be the holiday.

(22) *Inspection certificate.* A written or printed official document which is approved by the Service and which shows the results of an inspection service performed under the Act.

(23) *Inspection service.* (i) Applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examinations; and any other services as related to commodities, as necessary; and (ii) issuing an inspection certificate.

(24) *Instructions.* The Notices, Instructions, Handbooks, and other directives issued by the Service.

(25) *Interagency agreement.* An agreement between the Service and other agencies or departments of the Federal Government to conduct commodity inspection services as authorized in the Act.

(26) *Interested person.* Any person having a contract or other financial interest in a commodity as the owner, seller, purchaser, warehouseman, carrier, or otherwise.

(27) *Licensee.* Any person licensed by the Service.

(28) *Nongraded commodity.* Nonprocessed commodities which are chemically tested for factors not included in the Standards under the Act or the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) and processed commodities.

(29) *Nonregular workday.* Any Sunday or holiday.

(30) *Official inspector.* Any official personnel who performs, monitors, or supervises the performance of inspection service and certifies the results of inspection of the commodity.

(31) *Official personnel.* Any authorized Department employee or person licensed by the Administrator to perform all or specified functions under the Act.

(32) *Official sampler.* Any official personnel who performs, monitors, or supervises the performance of sampling of a commodity.

(33) *Official technician.* Any official personnel who performs, monitors, or supervises the performance of specified inspection services and certifies the results thereof, other than certifying the grade of a commodity.

(34) *Origin.* The geographical area or place where the commodity is grown.

(35) *Original inspection service.* An initial inspection of a community.

(36) *Person.* Any individual, partnership, association, corporation, or other business entity.

(37) *Plant.* The premises, buildings, structure, and equipment (including but not limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting, and storage of commodities.

(38) *Regular workday.* Any Monday through Saturday that is not a holiday.

(39) *Regulations.* The regulations in this Part

(40) *Reimbursable agreement.* An agreement between the Service and State agencies to conduct commodity inspection services authorized pursuant to the Act.

(41) *Retest inspection service.* To test, using the same laboratory procedures, a factor(s) of nongraded commodities previously tested.

(42) *Secretary.* The Secretary of Agriculture of the United States or any person to whom the Secretary's authority has been delegated.

(43) *Service.* The Federal Grain Inspection Service of the United States Department of Agriculture (FGIS).

(44) *Service representative.* An employee authorized by the Service or a person licensed by the Administrator.

(45) *Specification.* A document which clearly and accurately describes the essential and technical requirements for items, materials, or services including requested inspection procedures.

(46) *Standards.* The commodity standards in this Part that describe the physical and biological condition of a commodity at the time of inspection.

(47) *Submitted sample.* A sample submitted by or for an applicant for inspection.

(48) *Test.* A procedure to measure a factor using specialized laboratory equipment involving the application of established scientific principles and laboratory procedures.

Administration

§ 68.5 Administrator.

The Administrator, under the authority delegated by the Secretary, is charged with administering the programs and functions authorized under the Act and the regulations concerning those commodities assigned by the Secretary to the Service.

§ 68.6 Nondiscrimination—policy and provisions.

In implementing, administering, and enforcing the Act and the regulations, standards, and instructions, it is the policy of the Service to promote adherence to the provisions of the Civil Rights Act of 1964 (42 U.S.C. 2000a *et seq.*).

§ 68.7 Procedures for establishing regulations and standards.

Notice of proposals to prescribe, amend, or revoke regulations and standards shall be published in accordance with applicable provisions of the Administrative Procedures Act (5 U.S.C. 551 *et seq.*). Any interested person desiring to file a petition for the issuance, amendment, or revocation of regulations or standards may do so in accordance with 7 CFR 1.28 of the regulations of the Office of the Secretary of Agriculture.

§ 68.8 Complaints and reports of alleged violations.

(a) *General.* Except as provided in paragraph (b) of this section, complaints and reports of violations involving the Act or the regulations, standards, and instructions issued under the Act should be filed with the Service in accordance with 7 CFR 1.133 of the regulations of the Office of the Secretary of Agriculture and these regulations and the instructions.

(b) *Retest inspection and appeal inspection service.* Complaints involving the results of inspection services shall, to the extent practicable, be submitted as requests for retest inspection, appeal inspection, or Board appeal inspection services as set forth in these regulations.

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§ 68.9 Provisions for hearings.

Opportunities shall be provided for hearings either in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR Part 1, Subpart H) or in accordance with FGIS procedures as appropriate.

§ 68.10 Information about the Service, Act, and regulations.

Information about the Service, Act, regulations, standards, rules of practice, instructions, and other matters related to the inspection of commodities may be obtained by telephoning or writing the U.S. Department of Agriculture, Federal Grain Inspection Service, P.O. Box 96454, Washington, DC 20090-6454, or any field office or cooperator.

§ 68.11 Public information.

(a) *General.* This section is issued in accordance with §§ 1.1 through 1.16 of the regulations of the Secretary in Part 1, Subpart A, of Subtitle A of Title 7 (7 CFR 1.1 through 1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this section, govern the availability of records of the Service to the public.

(b) *Public inspection and copying.* Materials maintained by the Service, including those described in 7 CFR 1.2(a), will be made available, upon a request which has not been denied, for public inspection and copying at the U.S. Department of Agriculture, Federal Grain Inspection Service, 1400 Independence Avenue SW., Washington, DC 20250. The public may request access to these materials 8:00 a.m.–4:30 p.m. Monday through Friday except for holidays.

(c) *Indexes.* The Service shall maintain an index of all material required to be made available in 7 CFR 1.2(a). Copies of these indexes will be maintained at the location given in paragraph (b) of this section. Notice is hereby given that quarterly publication of these indexes is unnecessary and impracticable because the material is voluminous and does not change often enough to justify the expense of quarterly publication. However, upon specific request, copies of any index will be provided at a cost not to exceed the direct cost of duplication.

(d) *Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and shall be addressed as follows: Office of the Administrator, Federal Grain Inspection Service, FOIA Request, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090-6454.

(e) *FOIA Appeals.* Any person whose request, under paragraph (d) of this section, is denied shall have the right to appeal such denial in accordance with 7 CFR 1.3(e). Appeals shall be addressed to the Administrator, Federal Grain Inspection Service, FOIA Appeal, U.S. Department of Agriculture, P.O. Box 96454, Washington, DC 20090-6454.

(f) *Disclosure of information.* FGIS employees or persons acting for FGIS under the Act shall not, without the consent of the applicant, divulge or make known in any manner any facts or information acquired pursuant to the Act, regulations, or instructions except as authorized by the Administrator, by court of competent jurisdiction, or otherwise by law.

§ 68.12 Identification.

All official personnel shall have in their possession and present upon request, while on duty, the means of identification furnished to them by the Department.

§ 68.13 Regulations not applicable for certain purposes.

These regulations do not apply to the inspection of grain under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) or the inspection of commodities under the United States Warehouse Act, as amended (7 U.S.C. 241 *et seq.*).

Conditions for Obtaining or Withholding Service

§ 68.20 Availability of services.

(a) *Original inspection service.* Original inspection services are

available according to this section and §§ 68.40 through 68.44.

(b) *Retest inspection and appeal inspection services.* Retest inspection, appeal inspection, and Board appeal inspection services are available according to §§ 68.50 through 68.52 and §§ 68.60 through 68.63.

(c) *Proof of authorization.* A cooperator or the Service may request satisfactory proof that an applicant is an interested person or their authorized agent.

§ 68.21 Requirements for obtaining service.

(a) *Consent and agreement by applicant.* In submitting a request for inspection service, the applicant and the owner of the commodity consent to the requirements specified in paragraphs (b) through (j) of this section.

(b) *Written confirmation.* Verbal requests for inspection service shall be confirmed in writing upon request. Each written request shall be made in English and shall include:

(1) The date filed;

(2) The identification, quantity, and location of the commodity;

(3) The type of service(s) requested;

(4) The name and mailing address of the applicant and, if made by an authorized agent, the agent's name and mailing address; and

(5) Any other relevant information that the official with whom the application is filed may request.

A written request or a written confirmation of a verbal request shall be signed by the applicant or a duly authorized agent.

(c) *Names and addresses of interested persons.* When requested, each applicant for inspection service shall show on the application form the name and mailing address of each known interested person.

(d) *Surrender of superseded certificates.* Superseded certificates must be promptly surrendered.

(e) *Accessibility*—(1) *Commodities.* Each commodity lot inspected shall be arranged so the entire lot may be examined or, if necessary, a representative sample, as appropriate, can be obtained. If the entire lot is not accessible for examination or a representative sample cannot be obtained, the inspection shall be restricted to an examination or sampling of the accessible portion and the results certified as stated in § 68.34.

(2) *Origin records.* When an applicant requests origin inspection, the records indicating the origin of the commodity to be inspected shall be made accessible for examination and verification by official personnel.

(f) *Plant examination.* Plant surveys shall be performed upon request. Survey results shall be reported in writing to a designated plant official. If the plant is approved as a result of the survey, inspection service may begin or continue at a time agreed upon by the plant management and the cooperator or Service. If the plant is not approved as a result of the survey, inspection service shall be conditionally withheld pursuant to the procedures in § 68.24.

(g) *Working space.* An applicant must provide adequate and separate space when inspection service is performed at a plant.

(h) *Loading and unloading conditions.* Each applicant for inspection service shall provide or arrange for suitable conditions in the—

(1) Loading and unloading areas and the truck and railroad holding areas;

(2) Pier or dock areas;

(3) Deck and stowage areas of a carrier;

(4) Other service areas; and

(5) Equipment used in loading or unloading, processing, and handling the commodity.

Suitable conditions are those which will facilitate accurate inspection, maintain the quantity and the quality of the commodity that is to be inspected, and not be hazardous to the health and safety of official personnel as prescribed in the instructions.

(i) *Timely arrangements.* Requests for inspection service shall be made in a timely manner; otherwise, official personnel may not be available to provide the requested service. "Timely manner" shall mean not later than 2 p.m., local time, of the preceding business day.

(j) *Payment of bills.* Each applicant for inspection service shall pay bills for the service pursuant to §§ 68.90–68.92.

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§ 68.22 Withdrawal of request for inspection service by applicant.

An applicant may withdraw a request for inspection service any time before official personnel release results, either verbally or in writing. Reimbursement of expenses, if any, shall be made pursuant to § 68.26.

§ 68.23 Dismissal of request for inspection service.

(a) *Conditions for dismissal*—(1) *General.* A cooperator or the Service shall dismiss requests for inspection service when:

(i) Performing the requested service is not practicable or possible.

(ii) The cooperator or the Service lacks authority under the Act or regulations to provide the inspection service requested or is unable to comply with the Act, regulations, standards, or instructions.

(iii) Sufficient information is not available to make an accurate determination.

(2) *Original inspection service.* A request for original inspection service shall be dismissed if an original inspection has already been performed and circumstances do not prevent a retest inspection, appeal inspection, or Board appeal inspection from being performed on the same lot.

(3) *Retest inspection service.* A request for a retest inspection service shall be dismissed by official personnel when:

(i) The factor requested was not tested during the original inspection;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

(iv) The applicant requests that a new sample be obtained;

(v) The request is for a graded commodity; or

(vi) The reasons for the retest inspection are frivolous.

(4) *Appeal inspection service.* A request for an appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) The request specifies a file sample and a representative file sample is not available;

(iv) The applicant requests that a new sample be obtained and a new sample cannot be obtained; or

(v) The reasons for the appeal inspection are frivolous.

(5) *Board appeal inspection service.* A request for a Board appeal inspection service shall be dismissed by official personnel when:

(i) The scope is different from the scope of the original inspection service;

(ii) The condition of the commodity has undergone a material change;

(iii) A representative file sample is not available;

(iv) The applicant requests that a new sample be obtained; or

(v) The reasons for the Board appeal inspection are frivolous.

(b) *Procedure for dismissal.* The cooperator or the Service shall notify the applicant of the proposed dismissal of service. If correctable, the applicant will be afforded reasonable time to take corrective action or to demonstrate there is no basis for the dismissal. If

corrective action has not been adequate, the applicant will be notified of the decision to dismiss the request for service, and any results of service shall not be released.

§ 68.24 Conditional withholding of service.

(a) *Conditional withholding.* A cooperator or the Service shall conditionally withhold service when an applicant fails to meet any requirement prescribed in § 68.21.

(b) *Procedure for withholding.* The cooperator or the Service shall notify the applicant of the reason for the proposal to conditionally withhold service. The applicant will then be afforded reasonable time to take corrective action or to demonstrate that there is no basis for withholding service. If corrective action has not been adequate, the applicant will be notified of the decision to withhold service; and any results of service shall not be released.

§ 68.25 Denial or withdrawal of service.

(a) *General.* Service may be denied or withdrawn because of (1) any willful violation of the Act, regulations, standards, or instructions or (2) any interference with or obstruction of any official personnel in the performance of their duties by intimidation, threat, assault, or any other improper means.

(b) The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR Part 1, Subpart H) shall be followed in the denial or withdrawal of service.

§ 68.26 Expenses of the cooperator or the Service.

For any request that has been withdrawn, dismissed, or withheld under §§ 68.22, 68.23, or 68.24, respectively, each applicant shall pay expenses incurred by the cooperator or the Service.

Inspection Methods and Procedures

§ 68.30 Methods and order of performing inspection service.

(a) *Methods*—(1) *General.* All sampling and inspection services performed by official personnel shall be made in accordance with the regulations, standards, and the instructions.

(2) *Lot inspection service.* A lot inspection service shall be based on official personnel obtaining representative samples, examining the commodity in the entire lot, and making an accurate analysis of the commodity on the basis of the samples.

(3) *Submitted sample inspection service.* A submitted sample inspection service shall be based on a submitted sample of sufficient size to enable official personnel to perform an accurate, complete analysis. The sample size will be prescribed in the instructions. If a complete analysis cannot be performed because of an inadequate sample size or other conditions, the request shall be dismissed or a factor only inspection may be performed upon request.

(b) *Order of service.* Inspection services shall be performed, to the extent practicable, in the order in which requests for service are received.

(c) *Recording receipt of documents.* Each document submitted by or on behalf of an applicant for inspection service shall be promptly stamped or similarly marked by official personnel to show the date of receipt.

(d) *Conflicts of interest.* (1) Official personnel shall not perform or participate in performing an inspection service on a commodity or a carrier or container in which the official personnel have a direct or indirect financial interest.

(2) Official personnel shall not perform, participate in performing, or issue a certificate if the official personnel participated in a previous inspection or certification of the lot unless there is only one authorized person available at the time and place of the requested inspection service.

§ 68.31 Kinds of inspection services.

(a) *General.* The inspection of commodities shall be according to the—

(1) Standards of class, grade, other quality designation, quantity, or condition for such commodities promulgated by the Administrator; or

(2) Specifications prescribed by Federal agencies; or

(3) Specifications of trade associations or organizations; or

(4) Other specifications as requested by applicant; or

(5) The instructions.

The kinds of services provided and the basis for performing the services include those specified in paragraphs (b) through (m) of this section. Some or all of these services are provided when performing a complete inspection service.

(b) *Quality inspection service.* This service consists of official personnel—

(1) Obtaining representative sample(s) of an identified commodity lot;

(2) Examining, grading, or testing the sample(s);

(3) Examining relevant records for the lot; and

(4) Certifying the results.

(c) *Submitted sample inspection service.* This service consists of official personnel grading or testing a sample submitted by the applicant and certifying the results.

(d) *Examination service.* This service consists of official personnel examining supplies without the use of special laboratory equipment or procedures to determine conformance to requirements requested by the applicant and certifying the results.

(e) *Checkweighing service (container).* This service consists of official personnel—

(1) Weighing a selected number of containers from a commodity lot;

(2) Determining the estimated total gross, tare, and net weights or the estimated average gross or net weight per filled container; and

(3) Certifying the results.

(f) *Bulk weighing service.* This service consists of official personnel—

(1) Completely supervising the loading or the unloading of an identified lot of bulk or containerized commodity,

(2) Physically weighing or completely supervising the weighing of the commodity; and

(3) Certifying the results.

(g) *Checkloading service.* This service consists of official personnel—

(1) Performing a stowage examination;

(2) Computing the number of filled commodity containers loaded aboard the carrier;

(3) Observing the condition of commodity containers loaded aboard the carrier;

(4) If practicable, sealing the carrier; and

(5) Certifying the results.

(h) *Checkcounting service.* This service consists of official personnel determining the total number of filled outer containers in a lot to determine that the number of containers shown by the applicant is correct and certifying the results.

(i) *Condition inspection service.* This service consists of official personnel determining the physical condition of the commodity by determining whether an identifiable commodity lot is water damaged, fire damaged, or has rodent or bird contamination, insect infestation, or any other deteriorating condition and certifying the results.

(j) *Condition of food containers service.* This service consists of official personnel determining the degree of acceptability of the containers with respect to absence of defects which affect the serviceability, including appearance as well as usability, of the container for its intended purpose and certifying the results.

(k) *Observation of loading service.* This service consists of official

personnel determining that an identified lot has been moved from a warehouse or carrier and loaded into another warehouse or carrier and certifying the results.

(l) *Plant approval service.*[1] This service consists of official personnel performing a plant survey to determine if the plant premises, facilities, sanitary conditions, and operating methods are suitable to begin or continue inspection service.

(m) *Stowage examination service.* This service consists of official personnel visually determining if an identified carrier or container is clean; dry; free of infestation, rodents, toxic substances and foreign odor; and suitable to store or carry commodities and certifying the results.

§ 68.32 Who shall inspect commodities.

Official commodity inspections shall be performed only by official personnel.

§ 68.33 Sample requirements; general.

(a) *Samples for lot inspection service*—(1) *Original lot inspection service.* The sample(s) on which the original inspection is determined shall be—

(i) Obtained by official personnel;

(ii) Representative of the commodity in the lot;

(iii) Protected by official personnel from manipulation, substitution, and improper or careless handling; and

(iv) Obtained within the prescribed area of responsibility of the cooperator or field office performing the inspection service.

(2) *Retest lot inspection service.* The sample(s) on which the retest is determined shall meet the requirements of paragraph (a)(1) of this section. The retest inspection shall be performed on the basis of a file sample(s), and the samples shall meet the requirements prescribed in § 68.35(e).

(3) *Appeal lot inspection service.* For an appeal lot inspection service, the sample(s) on which the appeal is determined shall meet the requirements of paragraph (a)(1) of this section. If the appeal inspection is performed on the basis of a file sample(s), the samples shall meet the requirements prescribed in § 68.35(e). In accordance with § 68.61(b), an applicant may request that a new sample be obtained and examined as part of the appeal inspection service.

(4) *Board appeal lot inspection service.* A Board appeal lot inspection service shall be performed on the basis of file sample.

(b) *Sampler requirement.* An official sampler shall sample commodities and forward the samples to the appropriate cooperator or field office or other location as specified. A sampling report signed by the sampler shall accompany each sample. The report shall include the identity, quantity, and location of the commodity sampled; the name and mailing address of the applicant; and all other information regarding the lot as may be required.

(c) *Representative sample.* A sample shall not be considered representative of a commodity lot unless the sample—

(1) Has been obtained by official personnel;

(2) Is of the size prescribed in the instructions; and

(3) Has been obtained, handled, and submitted in accordance with the instructions.

(d) *Protecting samples.* Official personnel shall protect samples from manipulation, substitution, and improper and careless handling which would deprive the samples of their representativeness or which would change the physical and chemical properties of the commodity from the time of sampling until inspection services are completed and file samples have been discarded.

§ 68.34 Partial inspection.

When the entire lot is not accessible for examination or a representative sample cannot be obtained from the entire lot, the certificate shall state the estimated quantity of the commodity in the accessible portion and the quantity of the entire lot. The inspection shall be limited to the accessible portion. In addition, the words "Partial Inspection" shall be printed or stamped on the certificate.

§ 68.35 Sampling provisions by level of service.

(a) *Original inspection service*—(1) *Lot inspection service.* Each original lot inspection service shall be made on the basis of one or more representative samples obtained by official personnel from the commodity in the lot and forwarded to the appropriate location.

(2) *Submitted sample service.* Each original submitted sample inspection service shall be performed on the basis of the sample as submitted.

(b) *Retest inspection service.* Each retest inspection service performed on a commodity lot or a submitted sample shall be based on an analysis of the file sample.

(c) *Appeal inspection service*—(1) *Lot inspection service.* Each appeal inspection service on a commodity lot shall be made on the basis of a file sample or, upon request, a new sample.

(2) *Submitted sample service.* Each appeal inspection service on the commodity in a submitted sample shall be based on an analysis of the file sample.

(d) *Board appeal inspection service.* Each Board appeal inspection service performed on a commodity lot or submitted sample shall be based on an analysis of the file sample.

(e) *Use of file samples*—(1) *Requirements for use.* A file sample that is retained by official personnel in accordance with the procedures prescribed in the instructions shall be considered representative for retest inspection, appeal inspection, and Board appeal inspection service if: (i) The file samples have remained at all times in the custody and control of the official personnel that performed the inspection service and (ii) the official personnel who performed the inspection service in question and those who are to perform the retest inspection, the appeal inspection, or the Board appeal inspection service determines that the samples were representative of the commodity at the time the inspection service was performed and that the quality or condition of the commodity in the samples has not since changed.

(2) *Certificate statement.* The certificate for a retest inspection, appeal inspection, or Board appeal inspection service which is based on a file sample shall show the statement "Results based on file sample."

§ 68.36 Loss of identity.

(a) *Lots.* The identity of a packaged lot, bulk lot, or sublot of a commodity shall be considered lost if:

(1) A portion of the commodity is unloaded, transferred, or otherwise removed from the carrier or location after the time of original inspection, unless the identity is preserved; or

(2) More commodity or other material, including a fumigant or insecticide, is added to the lot after the original inspection was performed, unless the addition of the fumigant or insecticide was performed in accordance with the instructions; or

(3) At the option of official personnel performing an appeal inspection or Board appeal inspection service, the identity of a commodity in a closed carrier or container may be considered lost if the carrier or container is not sealed or the seal record is incomplete.

(b) *Carriers and containers.* The identity of a carrier or container shall be considered lost if (1) the stowage area is

[1] Compliance with the requirements in this paragraph does not excuse failure to comply with all applicable sanitation rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

cleaned, treated, fumigated, or fitted after the original inspection was performed or (2) the identification has been changed since the original inspection.

(c) *Submitted sample.* The identity of a submitted sample of a commodity shall be considered lost if:

(1) The identifying number, mark, or symbol for the sample is lost or destroyed; or

(2) The sample has not been retained and protected by official personnel as prescribed in the regulations and the instructions.

Original Inspection Service

§ 68.40 Who may request original inspection service.

Any interested person may apply for inspection service.

§ 68.41 Contract service.

Any interested person may enter into a contract with a cooperator or the Service whereby the cooperator or Service will provide original inspection services for a specified period, and the applicant will pay a specific fee.

§ 68.42 How to request original inspection service.

(a) *General.* Requests may be made verbally or in writing. Verbal requests shall be confirmed in writing when requested by official personnel. All written requests shall include the information specified in § 68.21. Copies of request forms may be requested from the cooperator or the Service. If all required documentation is not available when the request is made, it shall be provided as soon as it is available. At their discretion, official personnel may withhold inspection service pending receipt of the required documentation.

(b) *Request requirements.* Requests for original inspection service, other than submitted sample inspections, must be made with the cooperator or the Service responsible for the area in which the service will be provided. Requests for submitted sample inspections may be made with any cooperator or any field office that provides original inspection service. Requests for inspection of commodities during loading, unloading, handling, or processing shall be received far enough in advance so official personnel can be present.

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§ 68.43 Certificating original inspection results.

Official certificates shall be issued in accordance with § 68.70 and the instructions.

§ 68.44 New original inspection.

When circumstances prevent a retest inspection, appeal inspection, or Board appeal inspection, an applicant may request a new original inspection on any previously inspected lot; except that a new original inspection may not be performed on an identifiable commodity lot which, as a result of a previous inspection, was found to be contaminated with filth, other than insect fragments in nongraded processed products, or to contain a deleterious substance. A new original inspection shall be based on a new sample and shall not be restricted to the scope of any previous inspection. A new original inspection certificate shall not supersede any previously issued certificate.

Retest Inspection Service

§ 68.50 Who may request retest inspection service.

(a) *General.* Any interested person may request a retest inspection service on nongraded commodities. When more than one interested person requests a retest inspection service, the first interested person to file is the applicant of record. Only one retest inspection service may be performed on any original inspection service.

(b) *Scope of request.* A retest inspection service may be requested for any or all quality factors tested but shall be limited to analysis of the file sample.

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§ 68.51 How to request retest inspection service.

(a) *General.* Requests shall be made with the field office responsible for the area in which the original inspection service was performed. Verbal requests shall be confirmed in writing, upon request, as specified in § 68.21. Copies of request forms may be obtained from the field office upon request. If at the time the request is filed and the documentation required by § 68.21 is not available, official personnel may, at their discretion, withhold service pending the receipt of the required documentation.

(b) *Request requirements.* Requests will be considered filed on the date they are received by official personnel.

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§ 68.52 Certificating retest inspection results.

(a) *General.* Retest inspection certificates shall be issued according to § 68.70 and instructions. The certificate shall show the results of the factor(s) retested and the original results not included in the retest service.

(b) *Required statements on retest certificates.* Each retest inspection certificate shall show the statements required by this section, § 68.71, and the instructions.

(1) Each retest inspection certificate shall clearly show the term "Retest" and a statement identifying the superseded original certificate. The superseded certificate shall be considered null and void as of the date of the retest certificate. When applicable, the certificate shall also show a statement as to which factor(s) result is based on the retest inspection service and that all other results are those of the original inspection service.

(2) If the superseded certificate is in the custody of the Service, the superseded certificate shall be marked "Void." If the superseded certificate is not in the custody of the Service at the time the retest certificate is issued, a statement indicating that the superseded certificate has not been surrendered shall be shown on the retest certificate.

Appeal Inspection Service

§ 68.60 Who may request appeal inspection service.

(a) *General.* Any interested person may request appeal inspection or Board appeal inspection service. When more than one interested person requests an appeal inspection or Board appeal inspection service, the first interested person to file is the applicant of record. Only one appeal inspection may be obtained from any original inspection or retest inspection service for nongraded commodities. Only one Board appeal inspection may be obtained from any original or appeal inspection service for graded commodities. Board appeal inspection shall be performed on the basis of the file sample.

(b) *Kind and scope of request.* When the results for more than one kind of service are reported on a certificate, an appeal inspection or Board appeal inspection service, as applicable, may be requested on any or all kinds of services reported on the certificate. The scope of an appeal inspection service will be limited to the scope of the original inspection or, in the case of a Board appeal inspection service, the original or appeal inspection service. A request for appeal inspection of a retest inspection will be based upon the scope of the original inspection. If the request specifies a different scope, the request shall be dismissed. An appeal inspection for grade shall include a review of all factors that: (1) Determine the grade and (2) are reported on the original or, in the

case of a Board appeal inspection, the original or appeal inspection certificate.

(Approved by the Office of Management and Budget under control number 0580-0012.)

§ 68.61 How to request appeal inspection service.

(a) *General.* Requests shall be made with the field office responsible for the area in which the original service was performed. Requests for Board appeal inspections may be made with the Board of Appeals and Review or the field office that performed the appeal inspection. Verbal requests must be confirmed in writing, upon request, as specified in § 68.21. Copies of request forms may be obtained from the field office upon request. If at the time the request is made the documentation required by § 68.21 is not available, official personnel may, at their discretion, withhold service pending the receipt of the required documentation.

(b) *Request requirements.* (1) This subparagraph is applicable to rice inspection only. Except as may be agreed upon by the interested persons, the application shall be made: (i) Before the rice has left the place where the inspection being appealed was performed and (ii) no later than the close of business on the second business day following the date of the inspection being appealed. However, the Administrator may extend the time requirement as deemed necessary.

(2) Subject to the limitations of paragraph (b)(3) of this section, the applicant may request that an appeal inspection be based on: (i) The file sample or (ii) a new sample. However, an appeal inspection shall be based on a new sample only if the lot can positively be identified by official personnel as the one that was previously inspected and the entire lot is available and accessible for sampling and inspection. Board appeals shall be on the basis of the file sample.

(3) An appeal inspection shall be limited to a review of the sampling procedure and an analysis of the file sample when, as a result of a previous inspection, the commodity was found to be contaminated with filth (other than insect fragments in nongraded processed products) or to contain a deleterious substance. If it is determined that the sampling procedures were improper, a new sample shall be obtained if the lot can be positively identified as the lot which was previously inspected and the entire lot is available and accessible for sampling and inspection.

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§ 68.62 Who shall perform appeal inspection service.

(a) *Appeal.* For graded commodities, the appeal inspection service shall be performed by the field office responsible for the area in which the original inspection was performed. For nongraded commodities, the appeal inspection service shall be performed by the Service's Commodity Testing Laboratory.

(b) *Board appeal.* Board appeal inspection service shall be performed only by the Board of Appeals and Review. The field office will act as a liaison between the Board of Appeals and Review and the applicant.

§ 68.63 Certificating appeal inspection results.

(a) *General.* An appeal inspection certificate shall be issued according to § 68.70 and instructions. Except as provided in paragraph (b)(2) of this section, only the results of the appeal inspection or Board appeal inspection service shall be shown on the appeal inspection certificate.

(b) *Required statements.* Each appeal inspection certificate shall show the statements required by this section, § 68.71, and instructions.

(1) Each appeal inspection certificate shall clearly show: (i) The term "Appeal" or "Board Appeal" and (ii) a statement identifying the superseded certificate. The superseded certificate shall be considered null and void as of the date of the appeal inspection or Board appeal inspection certificate.

(2) When the results for more than one kind of service are reported on a certificate, the appeal or Board appeal inspection certificate shall show a statement of which kind of service(s) results are based on the appeal or Board appeal inspection service and that all other results are those of the original inspection, retest inspection, or appeal inspection service.

(3) If the superseded certificate is in the custody of the Service, the superseded certificate shall be marked "Void." If the superseded original inspection, retest inspection, or appeal inspection certificate is not in the custody of the Service at the time the appeal certificate is issued, a statement indicating that the superseded certificate has not been surrendered shall be shown on the appeal certificate.

(c) *Finality of Board appeal inspection.* A Board appeal inspection shall be the final appeal inspection service except that for nongraded commodities an appeal shall be the final appeal inspection.

Official Certificates

§ 68.70 Official certificates; issuance and distribution.

(a) *Required issuance.* An inspection certificate shall be issued to show the results of each kind and each level of inspection service.

(b) *Distribution*—(1) *Original.* The original and one copy of each inspection certificate shall be distributed to the applicant or the applicant's order. In addition, one copy of each inspection certificate shall be filed with the office providing the inspection; and, if the inspection is performed by a cooperator, one copy shall be forwarded to the appropriate field office. If requested by the applicant prior to issuance of the inspection certificate, additional copies not to exceed a total of three copies will be furnished at no extra charge.

(2) *Retest and appeal inspection service.* In addition to the distribution requirements in paragraph (b)(1) of this section, one copy of each retest or appeal inspection certificate will be distributed to each interested person of record or the interested person's order and to the cooperator or field office that issued the superseded certificate.

(3) *Additional copies.* Additional copies of certificates will be furnished to the applicant or interested person upon request. Fees for extra copies in excess of three may be assessed according to the fee schedules established by the cooperator or the Service.

(c) *Prompt issuance.* An inspection certificate shall be issued before the close of business on the business day following the date the inspection is completed.

(d) *Who may issue a certificate*—(1) *Authority.* Certificates for inspection services may be issued only by official personnel who are specifically authorized or licensed to perform and certify the results reported on the certificate.

(2) *Exception.* The person in the best position to know whether the service was performed in an approved manner and that the determinations are accurate and true should issue the certificate. If the inspection is performed by one person, the certificate should be issued by that person. If an inspection is performed by two or more persons, the certificate should be issued by the person who makes the majority of the determinations or the person who makes the final determination. Supervisory personnel may issue a certificate when the individual is licensed or authorized to perform the inspection being certificated.

(e) *Name requirement.* The name or the signature, or both, of the person who issued the inspection certificate shall be shown on the original and all copies of the certificate.

(f) *Authorization to affix names*—(1) *Requirements.* The names or the signatures, or both, of official personnel may be affixed to official certificates which are prepared from work records signed or initialed by the person whose name will be shown. The agent affixing the name or signature, or both, shall: (i) Be employed by a cooperating agency or the Service, (ii) have been designated to affix names or signatures, or both, and (iii) hold a power of attorney from the person whose name or signature, or both, will be affixed. The power of attorney shall be on file with the employing cooperating agency or the Service as appropriate.

(2) *Initialing.* When a name or signature, or both, is affixed by an authorized agent, the initials of the agent shall appear directly below or following the name or signature of the person.

(g) *Advance information.* Upon request, the contents of an official certificate may be furnished in advance to the applicant and any other interested person, or to their order, and any additional expense shall be borne by the requesting party.

(h) *Certification; when prohibited.* An official certificate shall not be issued for service after the request for an inspection service has been withdrawn or dismissed.

§ 68.71 Official certificate requirements.

Official certificates shall—

(a) Be on standard printed forms prescribed in the instructions;

(b) Be in English;

(c) Be typewritten or handwritten in ink and be clearly legible;

(d) Show the results of inspection services in a uniform, accurate, and concise manner;

(e) Show the information required by §§ 68.70–68.75; and

(f) Show only such other information and statements of fact as are provided in the instructions authorized by the Administrator.

§ 68.72 Certification of results.

(a) *General.* Each official certificate shall show the results of the inspection service.

(b) *Graded commodities.* Each official certificate for graded commodities shall show—

(1) The class, grade, or any other quality designation according to the official grade standards;

(2) All factor information requested by the applicant; and

(3) All grade determining factors for commodities graded below the highest quality grade.

§ 68.73 Corrected certificates.

(a) *General.* The accuracy of the statements and information shown on official certificates must be verified by the individual whose name or signature, or both, is shown on the official certificate or by the authorized agent who affixed the name or signature, or both. Errors found during this process shall be corrected according to this section.

(b) *Who may correct.* Only official personnel or their authorized agents may make corrections, erasures, additions, or other changes to official certificates.

(c) *Corrections prior to issuance.* No corrections, erasures, additions, or other changes shall be made which involve identification, quality, or quantity. If such errors are found, a new official certificate shall be prepared and issued and the incorrect certificate marked "Void." Otherwise, errors may be corrected provided that—

(1) The corrections are neat and legible;

(2) Each correction is initialed by the individual who corrects the certificate; and

(3) The corrections and initials are shown on the original and all copies.

(d) *Corrections after issuance*—(1) *General.* If errors are found on an official certificate at any time up to a maximum of 1 year after issuance, the errors shall be corrected by obtaining the incorrect certificate and replacing it with a corrected certificate. When the incorrect certificate cannot be obtained, a corrected certificate can be issued superseding the incorrect one.

(2) *Certification requirements.* The same statements and information, including permissive statements, that were shown on the incorrect certificate, along with the correct statement or information, shall be shown on the corrected certificate. According to this section and the instructions, corrected certificates shall show—

(i) The terms "Corrected Original" and "Corrected Copy,"

(ii) A statement identifying the superseded certificate and the corrections,

(iii) A statement indicating the superseded certificate was not surrendered when the incorrect certificate was not submitted; and

(iv) A new serial number.

In addition, the incorrect certificate shall be marked "Void" when submitted.

(e) *Limitations.* Corrected certificates cannot be issued for a certificate that has been superseded by another certificate or on the basis of a subsequent analysis for quality.

§ 68.74 Divided-lot certificates.

(a) *General.* When commodities are offered for inspection and are certificated as a single lot, the applicant may exchange the inspection certificate for two or more divided-lot certificates.

(b) *Application.* Requests for divided-lot certificates shall be made—

(1) In writing;

(2) By the applicant who made the initial request;

(3) To the office that issued the outstanding certificate;

(4) Within 5 business days of the outstanding certificate date; and

(5) Before the identity of the commodity has been lost.

(c) *Quantity restrictions.* Divided-lot certificates shall not show an aggregate quantity different than the total quantity shown on the superseded certificate.

(d) *Surrender of certificate.* The certificate that will be superseded shall—

(1) Be in the custody of the cooperator or the Service;

(2) Be marked "Void," and

(3) Show the identification of the divided-lot certificates.

(e) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the superseded certificate shall be shown on each divided-lot certificate. Divided-lot certificates shall show—

(1) A statement indicating the commodity was inspected as an undivided lot;

(2) The terms "Divided-Lot Original," and the copies shall show "Divided-Lot Copy;"

(3) The same serial number with numbered suffix (for example, 1764–1, 1764–2, 1764–3, and so forth); and

(4) The quantity specified by the request.

(f) *Issuance and distribution.* Divided-lot certificates shall be issued no later than the close of business on the next business day after the request and be distributed according to § 68.70(b).

(g) *Limitations.* After divided-lot certificates have been issued, further dividing or combining is prohibited except with the approval of the Service.

(Approved by the Office of Management and Budget under control number 0580–0012.)

§ 68.75 Duplicate certificates.

Upon request, a duplicate certificate may be issued for a lost or destroyed official certificate.

(a) *Application.* Requests for duplicate certificates shall be filed—

(1) In writing;

(2) By the applicant who requested the service covered by the lost or destroyed certificate; and

(3) With the office that issued the initial certificate.

(b) *Certification requirements.* The same information and statements, including permissive statements, that were shown on the lost or destroyed certificate shall be shown on the duplicate certificate. Duplicate certificates shall show: (1) The terms "Duplicate Original," and the copies shall show "Duplicate Copy" and (2) a statement that the certificate was issued in lieu of a lost or destroyed certificate.

(c) *Issuance.* Duplicate certificates shall be issued as promptly as possible and distributed according to § 68.70(b).

(d) *Limitations.* Duplicate certificates shall not be issued for certificates that have been superseded.

(Approved by the Office of Management and Budget under control number 0580–0012.)

Licensed Inspectors, Technicians, and Samplers

§ 68.80 Who may be licensed.

(a) *Inspectors.* The Administrator may license any person to inspect commodities and to perform related services if the individual—

(1) Is employed by a cooperator;

(2) Possesses the qualifications prescribed in the instructions; and

(3) Has no interest, financial or otherwise, direct or indirect in merchandising, handling, storing, or processing the kind of commodities or related products to be inspected.

The Administrator may require applicants to be examined for competency at a specific time and place and in a prescribed manner.

(b) *Technicians or samplers.* The Administrator may license any person as a technician to perform official specified laboratory functions, including sampling duties and related services, or as a sampler to draw samples of commodities and perform related services if the individual: (1) Possesses proper qualifications as prescribed in the instructions and (2) has no interest, financial or otherwise direct or indirect in merchandising, handling, storing, or processing the kind of commodities or related products to be chemically analyzed, mechanically tested, sampled, and so forth. The Administrator may require applicants to be examined for competency at a specific time and place and in a prescribed manner.

(Approved by the Office of Management and Budget under control number 0580–0012.)

§ 68.81 Licensing procedures.

(a) *Application.* An application for a license, the renewal of a license, or the return of a suspended license shall be submitted to the Service on forms furnished by the Service. Each application shall be in English, be typewritten or legibly written in ink, show all information prescribed by the application form, and be signed by the applicant.

(b) *Examinations and reexaminations.* Applicants for a license and individuals who are licensed to perform any or all inspection services shall, at the discretion of the Service, submit to examinations or reexaminations to determine their competency to perform the inspection functions for which they desire to be or are licensed.

(c) *Termination*—(1) *Procedure.* Each license shall terminate according to the termination date shown on the license and as specified by the schedule in this paragraph. The termination date for a license shall be no less than 3 years or more than 4 years after the issuance date for the initial license; thereafter, every 3 years. Upon request of a licensee and for good cause shown, the termination date may be advanced or delayed by the Administrator for a period not to exceed 60 days.

TERMINATION SCHEDULE

Last name beginning with	Termination date
A	January.
B	February.
C, D	March.
E, F, G	April.
H, I, J	May.
K, L	June.
M	July.
N, O, P, Q	August.
R	September.
S, T, U, V	October.
W	November.
X, Y, Z	December.

The Service shall issue a termination notice 60 days before the termination date. The notice shall give detailed instructions for requesting renewal of license, state whether a reexamination is required, and, if a reexamination is required, give the scope of the examination. Failure to receive a notice from the Service shall not exempt a licensee from the responsibility of having the license renewed by the termination date.

(2) *Exception.* The license of an individual under contract with the Service shall terminate upon termination of the contract.

(d) *Surrender of license.* Each license that is terminated or which is suspended or revoked under § 68.84 shall be promptly surrendered to the Administrator or other official of the Service designated by the Administrator.

(Approved by the Office of Management and Budget under control number 0580–0012.)

§ 68.82 Voluntary cancellation or suspension of license.

Upon request by a licensee, the Service may cancel a license or suspend a license for a period of time not to exceed 1 year. A license that has been voluntarily suspended shall be returned by the Service upon request by the licensee within 1 year, subject to the provisions of § 68.81 (a) and (b); a license that has been cancelled shall be considered void and shall not be subject to return or renewal.

§ 68.83 Automatic suspension of license by change in employment.

A license issued to an individual shall be automatically suspended when the individual ceases to be employed by the cooperator. If the individual is reemployed by the cooperator or employed by another cooperator within 1 year of the suspension date and the license has not terminated in the interim, upon request of the licensee, the license will be reinstated subject to the provisions of § 68.81 (a) and (b).

§ 68.84 Suspension or revocation of license.

(a) *General.* (1) An inspector's, technician's, or sampler's license may be suspended or revoked if the licensee: (i) Willfully, carelessly, or through incompetence fails to perform the duties specified in the Act, regulations, standards, or the instructions or (ii) becomes incapable of performing required duties.

(2) A license may not be suspended or revoked until the individual: (i) Has been served notice, in person or by registered mail, that suspension or revocation of the license is under consideration for reasons set out in the notice and (ii) has been given an opportunity for a hearing.

(b) *Procedure for summary action.* In cases where the public health, interest, or safety require, the Administrator may summarily suspend an inspector's, technician's, or sampler's license without prior hearing. In such cases, the licensee shall be advised of the factors which appear to warrant suspension or revocation of the license. The licensee

shall be accorded an opportunity for a hearing before the license is finally suspended or revoked.

(c) *Procedures for other than summary action.* Except in cases of willfulness or those described in paragraph (b) of this section, the Administrator, before instituting proceedings for the suspension or revocation of a license, shall provide the licensee an opportunity to demonstrate or achieve compliance with the Act, regulations, standards, and instructions. If the licensee does not demonstrate or achieve compliance, the Administrator may institute proceedings to suspend or revoke the license.

(The information collection requirements contained in paragraph (c) have been approved by the Office of Management and Budget under control number 0580-0012.)

Fees

§ 68.90 Fees for certain Federal inspection services.

The following fees apply to the Federal inspection services specified below.

Fees for Inspection of Hops, Pulses, Hay, Straw, and Miscellaneous Processed Commodities

TABLE 1.—HOURLY RATES

Service [1]	Regular Workday (Monday-Saturday)	Nonregular Workday (Sunday and Holiday)
Contract (per hour per Service representative)	$18.40	$21.00
Noncontract (per hour per Service representative)	22.40	25.40

[1] Original and appeal inspection services include: Grading, sampling, factor analysis, checkweighing, checkloading, condition examination, demonstration of grading, and other services requested by the applicant when performed at the point of service.

TABLE 2.—UNIT RATES

Service [1]	Bean, Pea and Lentil	Hay and Straw	Hops	Nongraded, Nonprocessed Commodities
Lot or sample (per lot or sample)	$	$15.00	$22.40	$
Field run (per lot or sample)	15.00			
Other than field run (per lot or sample)	11.20			
Factor analysis (per factor)	3.75	3.75		3.75
Extra copies of certificates (per copy)	3.00	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeal) for kind, class, grade, factor analysis, and any other quality designation as defined in the official U.S. Standards or applicable instructions when performed at other than the point of service.

Table 3.—*Laboratory Fees* [1] Merchant Marine Act, 1920

	Fees
Laboratory report	3.00
Laboratory testing:	
(a) In addition to the fees, if any, for sampling or other requested service a fee will be assessed for each laboratory test (original, retest or appeal) as follows:	
(1) Acidity Greek	6.30
(2) Acid value—oil	6.30
(3) Aflatoxin (Minicolumn method)	18.90
(4) Aflatoxin (TLC)	44.00
(5) Appearance, flavor and odor—oils	3.15
(6) Arachidic acid	12.10
(7) Ash	7.60
(8) Bacteria count	7.90
(9) Baking test—bread	18.90
(10) Baking test—cake	26.50
(11) Baking test—cookies	23.60
(12) Baume	6.30
(13) Bostwick (cooked)	12.60
(14) Bostwick (uncooked)	6.30
(15) Calcium (AOCA)	7.90
(16) Calcium enrichment	7.90
(17) Carotenoid color	9.45
(18) Checked and broken macaroni units	6.30
(19) Clarity of oil involving heating	6.30
(20) Cold test—oil	6.30
(21) Coliform	18.90
(22) Color—bleached	9.45
(23) Color—gardner	3.15
(24) Color—lovibond	3.15
(25) Color—oil and shortening	3.15

Table 3.—*Laboratory Fees* [1] Merchant Marine Act, 1920—Continued

	Fees
(26) Congeal point	15.10
(27) Cooking test	6.30
(28) Crude fat	6.30
(29) Crude fiber	10.10
(30) Density	6.30
(31) Dextrose equivalent	18.00
(32) Diastatic activity of flour	18.90
(33) Enrichment—quick test	3.15
(34) Falling number	6.30
(35) Farinograph characteristics	23.60
(36) Fat—acid hydrolysis	12.60
(37) Fat acidity	9.45
(38) Fat stability—AOM	12.60
(39) Filth—heavy	15.60
(40) Filth—light	18.90
(41) Flash point—open and close cup	9.45
(42) Foam test	18.90
(43) Foots—heated and/or chilled	6.30
(44) Foreign material—processed grain products	9.45
(45) Free fatty acids	6.30
(46) Heating test—oil and shortening	6.30
(47) Hydrogen ion activity pH	9.45
(48) Insoluble bromides	6.30
(49) Insoluble impurities—oil and shortening	6.30
(50) Iodine number or value	9.45
(51) Iron enrichment	12.60
(52) Linolenic acid (fatty acid profile)	12.10
(53) Lipid phosphorous	47.00
(54) Loaf volume	18.90
(55) Lysine from fortification	23.10
(56) Lysine from hydrolysis of protein	12.10
(57) Maltose value—flour	18.90

Table 3.—*Laboratory Fees* [1] Merchant Marine Act, 1920—Continued

	Fees
(58) Marine oil in vegetable oil—qualitative	6.30
(59) Melting point—Wiley	12.60
(60) Moisture—distillation	9.45
(61) Moisture—oven	4.40
(62) Moisture and volatile matter—oil and shortening	6.30
(63) Neutral oil loss	18.90
(64) Nitrogen solubility index	15.70
(65) Oven leak test—oil can	9.45
(66) Oil content—oilseed	9.45
(67) Particle size—flour	14.90
(68) Performance test—prepared bakery mix	21.70
(69) Peroxide value	6.30
(70) Phosphorous	12.60
(71) Popping value—popcorn	18.90
(72) Potassium bromate—qualitative	3.15
(73) Potassium bromate—quantitative	9.45
(74) Protein dispersibility index	15.70
(75) Protein, Kjeldahl	7.30
(76) Purity—Monosodium glutamate	25.20
(77) Reducing sugars	18.90
(78) Refractive index	9.45
(79) Riboflavin	25.20
(80) Rope spore count	31.50
(81) Salmonella	37.00
(82) Salt content	9.45
(83) Saponification number	9.45
(84) Sedimentation	15.70
(85) Sieve test	4.40
(86) Smoke point	9.45
(87) Softening point	12.60
(88) Solid fat index	21.80
(89) Specific baking volume cake mix	21.80

Table 3 —*Laboratory Fees* [1] Merchant Marine Act, 1920—Continued

	Fees
(90) Specific gravity—oils	12.60
(91) Starch damage—flour	14.90
(92) Staphylococcus aureus	24.50
(93) Sucrose	18.90
(94) Test weight per bushel—other than grain	2.60
(95) Tilletia controversa Kuhn (TCK)	25.20
(96) Unsaponifiable matter	12.60
(97) Urease activity	9.45
(98) Viscosity	12.60
(99) Water soluble protein	15.70
(100) Xanthydrol test for rodent urine	12.60

Table 3.—*Laboratory Fees* [1] Merchant Marine Act, 1920—Continued

	Fees
(101) Other laboratory tests	(2)
(b) If a requested test is to be reported on a specified moisture basis, a fee for moisture test will also be assessed.	

[1] When laboratory testing service is provided for FGIS by a private laboratory, the applicant will be assessed a fee which, as nearly as practicable, covers the cost to FGIS for the service provided.

[2] Fees for other laboratory tests not referenced above will be based on the noncontract hourly rate listed in Table 1.

§ 68.91 Fees for certain Federal rice inspection services.

The fees shown in tables 4 and 5 apply to Federal rice inspection services.

Fees for Federal Rice Inspection Services

TABLE 4.—HOURLY RATES

Service [1]	Regular Workday (Monday–Saturday)	Nonregular Workday (Sunday and Holiday)
Contract (per hour per Service representative)	$28.40	$39.40
Noncontract (per hour per Service representative)	34.40	48.00

[1] Original and appeal inspection services include: sampling, grading, weighing, and other services requested by the applicant when performed at the point of service.

TABLE 5.—UNIT RATES

Service [1] [3]	Rough Rice	Brown Rice for Processing	Milled Rice
Inspection for quality (per lot, sublot, or sample inspection)	$23.00	$20.00	$14.30
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample)	18.00	18.00	
(b) All other factors (per factor)	8.60	8.60	8.60
Total oil and free fatty acid		28.00	28.00
Interpretive lines samples: [2]			
(a) Milling degree (per set)			60.00
(b) Parboiled light (per sample)			15.00
Extra copies of certificates (per copy)	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or combined at other than the point of service.

[2] Interpretive line samples may be purchased from the U.S. Department of Agriculture, Federal Grain Inspection Service, Field Management Division, Board of Appeals and Review, USDA, FGIS Technical Center, 10383 North Executive Hills Boulevard, Kansas City, MO 68030.

Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Deputy Director, Field Management Division, USDA, FGIS, P.O. Box 96454, Washington, DC 20090-6454. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

[3] Fees for other services not referenced in Table 2 will be based on the noncontract hourly rate listed in Table 1.

§ 68.92 Explanation of service fees and additional fees.

(a) *Costs included in the fees.* Fees for official services in §§ 68.90 and 68.91 include—

(1) The cost of performing the service and related supervision and administrative costs;

(2) The cost of per diem, subsistence, mileage, or commercial transportation to perform the service;

(3) The cost of first-class mail service;

(4) The cost of overtime and premium pay; and

(5) The cost of certification except as provided in § 68.92(c).

(b) *Computing hourly rates.* Hourly fees will be assessed in quarter hour increments for—

(1) Travel from the FGIS field office or assigned duty location to the service point and return; and

(2) The performance of the requested service, less mealtime.

(c) *Additional fees.* Fees in addition to the applicable hourly or unit fee will be assessed when—

(1) An applicant requests more than the original and three copies of a certificate;

(2) An applicant requests onsite typing of certificates or typing of certificates at the FGIS field office during other than normal working hours; and

(3) An applicant requests the use of express-type mail or courier service.

(d) *Application of fees when service is delayed by the applicant.* Hourly fees will be assessed when—

(1) Service has been requested at a specified location;

(2) A Service representative is on duty and ready to provide service but is unable to do so because of a delay not caused by the Service; and

(3) FGIS officials determine that the Service representative(s) cannot be utilized elsewhere or cannot be released without cost to the Service.

(e) *Application of fees when an application for service is withdrawn or dismissed.* Hourly fees will be assessed to the applicant for the scheduled service if the request is withdrawn or dismissed after the Service representative departs for the service point or if the request for service is not withdrawn or dismissed by 2 p.m. of the business day preceding the date of scheduled service. However, hourly fees

will not be assessed to the applicant if FGIS officials determine that the Service representative can be utilized elsewhere or if the Service representative can be released without cost to the Service.

(f) *To whom fees are assessed.* Fees for official services including additional fees as provided in § 68.92(c) shall be assessed to and paid by the applicant for the service.

(g) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(h) *Time and form of payment*—(1) *Fees for Federal inspection service.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to U.S. Department of Agriculture, Federal Grain Inspection Service.

(2) *Fees for cooperator inspection service.* Fees for inspection services provided by a cooperator shall be paid by the applicant to the cooperator in accordance with the cooperator's fee schedule.

Date: January 20, 1988.

W. Kirk Miller,

Administrator.

[FR Doc. 88-2549 Filed 2-8-88; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1097

Milk in the Memphis, TN, Marketing Area; Order Suspending a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of a rule.

SUMMARY: This action extends through 1988 the suspension, which expired December 31, 1987, of the pool supply plant provision of the Memphis order. The extension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that is continuing to make supplemental shipments of milk to meet the increased fluid milk needs of Memphis distributing plants. The supply that Mid-Am has available to meet the greater need for milk in fluid uses by Memphis handlers is milk received at the cooperative's plants which handle reserve milk supplies associated with distributing plants that are regulated under other Federal orders. The quantity of milk needed by Memphis handlers would result in Mid-Am's plants and the associated milk supplies becoming regulated under the individual-handler pool Memphis order. Such a regulatory change would result in a reduction of returns to Mid-Am's member-producers and disrupt their normal association with other Federal orders. A continuation of the suspension will allow the reserve milk supplies and supplemental shipments for fluid milk needs to continue to be regulated under the orders with which the milk is currently associated and facilitate making sufficient supplies of milk available to Memphis distributing plants for fluid use.

DATE: Effective February 9, 1988, § 1097.7(b) is suspended for the months of January through December 1988.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS, Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued January 12, 1988; published January 19, 1988 (53 FR 1369).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action tends to ensure that dairy farmers will continue to have their milk priced under the order for the market which is the primary outlet for their milk and thereby receive the benefits that accrue from such pricing. This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and of the order regulating the handling of milk in the Memphis, Tennessee marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 19, 1988 (53 FR 1369) concerning a proposal to suspend a certain provision of the Memphis order. Interested persons were given an opportunity to file written data, views or arguments with respect to such proposal. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of January-December 1988 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1097.7, paragraph (b) in its entirety.

Statement of Consideration

This action continues through 1988 the suspension, which expired on December 31, 1987, of that portion of the fluid milk plant provision that defines a pool supply plant. The Memphis order regulates a plant that ships in excess of 70,000 pounds of milk to fully regulated distributing plants during the month.

An extension of the prior suspension (which covered the months of March-December 1987) was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that is continuing to make supplemental shipments of milk to meet the increased fluid milk needs of distributing plants regulated under the Memphis order. Such shipments are expected to be necessary throughout 1988.

The most feasible supply that Mid-Am has available to meet the continuing fluid milk needs of Memphis handlers is located in the heavy milk production area of southwest Missouri. However, milk in that area is associated with plants that are operated by Mid-Am and regulated under the Southern Illinois, Southwest Plains, and Texas orders. These plants are qualified for pool status under the respective orders on the basis of shipments from such plants to distributing plants and/or on the basis of Mid-Am's marketwide performance in supplying milk to distributing plants. Shipments from the cooperative's Missouri plants would result in the regulation of one or more of Mid-Am's plants under the Memphis order.

Since the Memphis order provides for individual-handler pooling, regulation of Mid-Am's reserve plants under that order would result in a reduction of returns to Mid-Am's producers since the reserve milk supplies of other markets also would become regulated under the Memphis order. Thus, an extension of the suspension is necessary to permit the continued pooling during 1988 of the reserve milk supplies under the orders with which such milk is currently associated and to facilitate making sufficient supplies of milk available to Memphis handlers for fluid use.

Mid-Am has been relying on the southwest Missouri production area to supply Memphis handlers since September 1986. Since that time a shift in the regulation of the cooperative's plants has been avoided by suspending the Memphis pool supply plant provision during October-December 1986 and March-December 1987 and by alternating the plants from which milk was shipped to Memphis distributing plants in the months the provision was not suspended. Since a continuing reliance on such milk supplies will be necessary during 1988, the suspension should be continued.

Interested persons were given 7 days after **Federal Register** publication to file comments concerning the proposal to suspend. No opposing views were received. Accordingly, the provision is hereby further suspended for the months of January-December 1988.

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

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing in the marketing area in that dairy farmers will continue to have their milk priced under the order covering the market that is the primary outlet for their milk and thereby receive the benefits that accrue from such pricing;

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

(c) Notice of such proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this action. No views opposing the suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following provision in § 1097.7 of the Memphis, Tennessee order is hereby suspended for the months of January through December 1988.

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

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

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

§ 1097.7 [Amended]

2. In § 1097.7, paragraph (b) is suspended in its entirety, for the months of January through December, 1988.

Signed at Washington, DC, on February 3, 1988.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 88–2648 Filed 2–8–88; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 362

[Docket No. 85-012F]

Identification Service for Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides for a voluntary, reimbursable service in warehouses and other facilities outside the official establishment that would ensure the continued identification of poultry and poultry products that have been federally inspected and passed. Ordinarily, the mark of inspection may be placed on a product only at the producing establishment. This service will allow persons at certain warehouses and other premises to divide bulk containers of such products into smaller units or to combine a number of such products into larger units, and still retain the products' identity as being federally inspected and passed.

EFFECTIVE DATE: March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Dennis, Director, Processed Products Inspection Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that this final rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation; or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since the final rule provides for a voluntary, reimbursable inspection service, the costs to the Food Safety and Inspection Service (FSIS) are minimal. Identification service would save producers the costs associated with transporting product to official establishments, and, therefore, could reduce costs to consumers as well.

Effects on Small Entities

Under the circumstances mentioned above, the Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601).

Paperwork Requirements

This final rule would require that persons wishing to obtain identification service for poultry under the proposed voluntary program register with FSIS. These persons would also be required to maintain certain records outlined in the regulations. The recordkeeping and reporting requirements have been reviewed by the Office of Management and Budget under authority of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been so approved (control number 0583–0036).

Background

Pursuant to the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), Parts 350 through 362 of Title 9 have been promulgated to regulate the voluntary inspection and certification service for meat and poultry. Section 350.3 of Title 9 of the regulations authorizes a voluntary identification service to be provided for meat and other products that have been federally inspected and passed at an official establishment. The purpose of providing identification service is to allow persons at certain warehouses and other premises to divide such products into smaller portions or combine such products into larger units, while maintaining the identity of the product as federally inspected and passed and so marked.

While this voluntary program has been in place for some time with regard to meat and other products, no similar regulation has existed to provide similar service for poultry and poultry products.

In recent years, the increasing demand for poultry products has led to alternative marketing and distribution methods. In order to meet demands presented by these newly-developed marketing methods, some processors have expressed an interest in breaking

bulk, repackaging, weighing, and officially labeling poultry products at warehouses or distribution points which are not federally inspected. Under current poultry regulations, most of these operations as well as the official identification and labeling of poultry products must be performed at an official establishment in the presence of an inspector.

On June 8, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule at 52 FR 21563 to amend § 362.2 of its regulations (9 CFR 362.2). Under this final rule, the continued presence of an inspector during these operations will ensure that the poultry products have been properly stored, transported and have not been changed in any manner that would make them ineligible for the federal mark of inspection. The regulation will allow a processor greater latitude in the handling and distribution of his product by permitting identification service at a location other than an official establishment.

Identification service for meat and other products is a voluntary service, provided by FSIS, upon application under § 350.5 of the regulations. When an application for identification service is approved, an inspector will go to the warehouse or other premises meeting the requirements of the regulations, and supervise proper identification, sanitary conditions, and product integrity. The inspector will then permit the remarking and labeling of product with the Federal mark of inspection.

Identification service for poultry will be obtained in a similar fashion as for meat. An application will be made for this voluntary service under § 362.3 of Title 9 of the regulations. The person requesting identification service for poultry will reimburse FSIS according to § 362.5 of the regulations. Currently, the base rate is $19.04 per hour.

FSIS expects that providing this service for poultry will be beneficial since it will facilitate the efficient handling and distribution of poultry and poultry products. In view of the success of the program FSIS currently makes available for meat and meat food products, it appears that it is in the best interests of consumers and producers to make available the same service for poultry and poultry products. This objective will be accomplished by amending § 362.2 of Title 9 of the regulations by adding a new paragraph (c).

Comments on Proposed Rule

FSIS received one written comment in response to the proposal. The professional association making the comment supported the proposed rule since it fulfilled the need for a regulation that would permit better distribution of federally inspected poultry products on the same basis that already is permitted for other meat products, at no increased risk to consumers.

Final Rule

After careful consideration of all relevant information available to FSIS, the Administrator has determined that the proposed rule should be published as proposed with changes for purposes of clarification. In particular the final rule makes it clear that the provisions of the regulations are applicable to all persons requesting inspection under the regulations. The term person is defined in 9 CFR 362.1(c) to include any individual, corporation, company, association, firm, partnership, society, joint stock company, or other organized business unit.

List of Subjects in 9 CFR Part 362

Poultry and poultry products, Voluntary inspection.

PART 362—[AMENDED]

1. The authority citation for Part 362 continues to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1662, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

2. Section 362.2 would be amended by adding a new paragraph (c), to read as follows:

§ 362.2 Types and availability of service.

* * * * *

(c) *Identification Service.* (1) Poultry or other product that is federally inspected and passed at an official establishment, or upon importation, under the Poultry Products Inspection Act, is officially marked to identify it as federally inspected and passed. In order to facilitate the division of such poultry or other product into smaller portions or its combination into larger units and still maintain its identity as product which has been federally inspected and passed and so marked, inspectors may supervise the handling and weighing of the product and mark such portions and units with the official mark of inspection when they determine that identity has been maintained.

(2) At the time service is furnished, product must be sound, wholesome, and fit for human food. The service will be available only on premises other than those of an official establishment. The sanitation of the place or area where service is furnished must comply with the provisions of Part 381, Subpart H, of this chapter.

(3) The mark of inspection shall be applied only under the immediate supervision of an inspector.

(4) This service does not cover further cutting and processing of products. These activities must take place at an official establishment.

(5) The registration and recordkeeping requirements enumerated in Part 381, Subpart Q, of this chapter shall apply to persons requesting voluntary identification service under this paragraph (c).

Done at Washington, DC, on: February 4, 1988.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 88-2724 Filed 2-8-88; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-19, Amdt. 39-5812]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action published in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc. Model 222, 222B, and 222U helicopters by individual priority letter. The AD requires a one-time visual inspection of the tail rotor control servo actuator rivets.

The AD is needed to prevent loss of a rivet, ultimate disconnect of the control linkage on servo P/N 222-382-002-101, and resultant loss of directional control.

DATES: *Effective Date:* February 9, 1988, as to all persons except those persons to whom it was made immediately effective by priority letter AD 85-14-11 issued July 16, 1985, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 9, 1988.

Compliance: As prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101.

A copy of the Alert Service Bulletin (ASB) is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Walter E. Davis, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0170. Telephone: (817) 624-5175.

SUPPLEMENTARY INFORMATION: On July 16, 1985, priority letter AD 85-14-11 was issued and made effective immediately as to all known U.S. owners and operators of certain BHTI, Model 222, 222B, and 222U helicopters. The AD requires a one-time visual inspection of the tail rotor control servo actuator rivets. AD action was necessary to prevent loss of a rivet, ultimate disconnection of the control linkage on servo P/N 222-382-002-101, and resultant loss of directional control.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letter issued July 16, 1985, to all known U.S. owners and operators of certain BHTI Model 222, 222B, and 222U helicopters.

These conditions still exist. The AD has been revised from the priority letter AD as noted and is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons in less than 30 days. These revisions consist of the following:

(1) The effective dates are added to the ASB's.

(2) In paragraph (a), the words "effective date of this AB" replace the words "receipt of this AD" and the words "visually inspect" replace the word "inspect" to describe the inspection means. The date, March 16, 1981, is added to the referenced Model 222 Component Repair and Overhaul Manual page to complete the description.

(3) In paragraph (b), the condition "or if either rivet is loose or missing" is added to provide a more complete criterion for replacement and to agree with the service information. The phrase "in accordance with manufacturer's maintenance instructions" is deleted since a specific replacement instruction for the servo is not necessary.

(4) In paragraph (c), the phrase "or adjustment of the compliance time" is deleted since it is no longer needed.

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

List of Subject in 14 CFR Part 39

Air transportion, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of The Amendment

PART 39—AIRWORTHINESS DIRECTIVES

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Bell Helicopter Textron, Inc., Model 222 helicopters, serial numbers 47008 through 47089; Model 222B helicopter, serial numbers 47131 through 47143; Model 222U helicopters, serial numbers 47501 through 47537, and 47539.

Compliance is required prior to next flight after the effective date of this AD unless previously accomplished in accordance with BHTI ASB 222-85-33, dated August 13, 1985, or ASB 222U-85-8, dated August 13, 1985.

To prevent the loss of a rivet and ultimate disconnection of the control linkage on tail rotor control servo P/N 222-382-002-101, accomplish the following:

(a) Prior to next flight, after the effective date of this AD, visually inspect installation of linkage rivets (3) for shop-formed head in accordance with BHTI ASB No. 222-85-33, dated August 13, 1985 or 222U-85-8, Dated August 13, 1985.

Note: Parts are indentified in BHTI Model 222 Component Repair and Overhaul Vol 2, Chapter 29-00-1 pp. 1009 and 1010, Fig. 1, Index Number 46, 54, and 156 rivets, March 16, 1981.

(b) If the shop-formed head on each rivet is not evident, or if either rivet is loose or missing, the tail rotor control servo must be replaced prior to further flight.

(c) An alternate method of compliance which provides an equivalent level of safety, may be used when approved by the Manager, Helicopter Certification Branch, Aircraft Certification Division, FAA, Southwest Region.

The above procedures shall be done in accordance with BHTI ASB No. 222-85-33, dated August 13, 1985, or BHTI ASB No. 222U-85-8, dated August 13, 1985, as appropriate, and E-Systems Service Bulletin No. 143000-29-65, dated July 30, 1985, and E-Systems Service Bulletin No. 141500-29-66, dated July 30, 1985. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C 552(a)(1) and 1 CFR Part 51. Copies may be obtained from BHTI, P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective February 9, 1988, as to all persons except those persons to whom it was made immediately effective by priority letter AD 85-14-11, issued July 26, 1985, which contained this amendment.

Issued in Forth Worth, Texas, on December 10, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 88-2620 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-03-AD; Amdt. 39-5849]

Airworthiness Directives; Gulfstream Aerospace Model G-IV Series Airplanes Equipped With Sperry/Honeywell SPZ-8000 Flight Guidance Computer (FGC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Gulfstream Aerospace Model G-IV series airplanes by individual letters. This AD requires discontinuance of all autopilot/flight director instrument

landing system (ILS) operations, and disabling of the approach mode in the autopilot/flight director. This action is prompted by reports of a software design problem identified in the Sperry/Honeywell SPZ-8000 Flight Guidance Computer (FGC), which can result in unannunciated, hazardously misleading flight director and autopilot commands during ILS operations.

DATES: Effective March 4, 1988. This AD was effective earlier to all recipients of Priority Letter AD 88-02-01, dated January 15, 1988.

ADDRESSES: The applicable service information may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402-2206. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Williams, Aerospace Engineer, Atlanta Aircraft Certification Office, Systems and Equipment Branch, ACE-130A, FAA, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991-3020.

SUPPLEMENTARY INFORMATION: The FAA has received reports of a software design problem identified in the Sperry/Honeywell SPZ-8000 Flight Guidance Computer (FGC) installed on Gulfstream Aerospace Model G-IV series airplanes, which can result in unannunciated, hazardously misleading flight director and autopilot commands during instrument landing system (ILS) operations. This condition can be caused by a radar altimeter miscompare or loss of both radar altimeter inputs to the FGC.

On December 24, 1987, Gulfstream Aerospace issued Priority Service Letter SE-TS-87-0834, recommending restriction to single radar altimeter operations to eliminate the possibility of miscompares. However, the FAA has determined that that action is not sufficient to correct the unsafe condition.

On January 15, 1988, the FAA issued Priority Letter AD 88-02-01, applicable to Gulfstream Aerospace Model G-IV series airplanes equipped with the Sperry/Honeywell SPZ-8000 FGC, which requires immediate discontinuance of all autopilot/flight director ILS operations, and disabling of the approach mode in the autopilot/flight director within 15 days, in a manner approved by the FAA. This is considered to be an interim action until final action has been identified, at which time the FAA may consider further rulemaking on this subject.

Paragraph E. of the final rule has been revised to delegate approval of any adjustment of the compliance time to the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

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

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Gulfstream Aerospace: Applicable to all Model G-IV series airplanes equipped with Sperry/Honeywell SPZ-8000 Flight Guidance Computer (FGC), certificated in any category, except for airplanes designated for research and development by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region. Compliance is required as indicated, unless previously accomplished.

To prevent the potential display and use of hazardously misleading information from the Flight Guidance Computer (FGC) during an ILS approach, accomplish the following:

A. Prior to further flight, add the following to the limitations section of the airplane flight manual (AFM) and notify all crewmembers. This may be accomplished by inserting a copy of this AD in the AFM: "ILS approaches utilizing the flight director and/or autopilot are prohibited."

B. Prior to further flight, affix an appropriate placard(s) on the instrument panel in full view of both crewmembers stating: "FLIGHT DIRECTOR/COUPLED ILS APPROACHES PROHIBITED."

C. Prior to further flight, affix an appropriate placard to the Approach Mode Arm (APR) switch on the autopilot control panel stating: "USE PROHIBITED."

D. Within 15 days after receipt of this AD, disable the approach mode in the autopilot/flight director in a manner approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of the FAA Principal Maintenance Inspector, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402-2206. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

This amendment becomes effective March 4, 1988.

It was effective earlier to all recipients of Priority Letter AD 88-02-01, issued January 15, 1988.

Issued in Seattle, Washington, on February 1, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-2622 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-131-AD; Amdt. 39-5844]

Airworthiness Directives; McDonnell Douglas Model DC-9, DC-9-80, and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 1371

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive, applicable to certain McDonnell Douglas DC-9 series airplanes, which currently requires inspection and repair, if necessary, of the upper anticollision light doubler. This amendment revises the existing AD to expand the applicability statement to include Model DC-9-80 (MD-80) series airplanes, fuselage numbers 1249 through 1371, since the incorporation of production equivalent changes was not accomplished on these airplanes prior to delivery.

EFFECTIVE DATE: March 21, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-LOO (54-60). This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6321.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 85-19-03 R1, Amendment 39-5200 (50 FR 52766; December 26, 1985) to expand the applicability to include certain Model DC-9-80 (MD-80) series airplanes, was published in the **Federal Register** on October 30, 1987 (52 FR 41731).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received in response to the proposal.

The commenter, the Air Transport Association (ATA) of America, had no objection to the proposed amendment.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule.

It is estimated that 122 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $68,320.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model DC-9 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By revising the applicability statement of AD 85-19-03-RI, Amendment 39-5200 (50 FR 52766; December 26, 1985), as follows:

* * * Applies to McDonnell Douglas Model DC-9, DC-9-80, and C-9 (Military) series airplanes, fuselage numbers 1 through 1371, certificated * * *.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-LOO (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective March 21, 1988.

Issued in Seattle, Washington, on February 1, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-2621 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Presumptive Disability and Presumptive Blindness; Categories of Impairments—AIDS

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We may pay benefits to a person applying for supplemental security income benefits on the basis of disability or blindness before making a formal determination when available information indicates a high probability that disability exists. These findings of presumptive disability and blindness may be made at the Social Security district offices only for specified impairment categories; at the State agencies, they may be made for any impairment category. We are publishing final rules which add acquired immunodeficiency syndrome (AIDS) to these categories in view of the predictability that the disease will result in a finding of disability.

DATE: Effective February 9, 1988. These final regulations will be effective through December 31, 1989, when they will expire, unless extended or revised and promulgated again.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, Telephone (301) 965-1759.

SUPPLEMENTARY INFORMATION: Section 1631(a)(4)(B) of the Social Security Act (the Act) provides that a claimant applying for supplemental security income benefits based on disability or blindness may receive up to 3 months' payments prior to the determination of the individual's disability or blindness if he or she is presumptively disabled or blind and otherwise eligible. Any such payments based on presumptive disability or blindness are not

considered overpayments if it is later determined that the person is not disabled or blind, unless the person is disallowed benefits due to a nondisability eligibility criterion or it is later determined that the amount of the payment was incorrectly calculated.

A finding of presumptive disability or presumptive blindness is made at the district office in cases where the available evidence or other information, including observations and confirming contacts, indicates a high degree of probability that the claimant is disabled or blind, even though the evidence may be insufficient for a final determination of disability or blindness by the State agency.

A State agency may also make a finding of presumptive disability or blindness. Generally, a presumptive finding of disability or blindness made at the State agency may be based on any impairment when the evidence is sufficient to determine that there is a high degree of probability that the finding will later be confirmed when complete evidence is obtained.

On the other hand, district office findings are restricted to impairment categories for which experience has shown that particularly reliable findings of presumptive disability and presumptive blindness can be made. The district office may find presumptive disability and blindness in those situations specified in 20 CFR 416.934, provided that the claimant's statements about his or her medical condition are consistent with observations of the district office representative or supported by confirming contacts. These limitations insure that presumptive findings are seldom reversed when actual medical evidence is considered for the formal disability or blindness determinations by the State agency.

On February 11, 1985, we published interim regulations in the **Federal Register** (50 FR 5573) adding AIDS as then defined by the Centers for Disease Control (CDC) to the impairment categories in § 416.934 to permit district offices to find presumptive disability for this disease. These regulations were effective February 11, 1985.

Under the final regulations, the district office may find presumptive disability when a claimant, who is not working, alleges disability due to AIDS after a confirming contact has been made to ascertain that this disease with one or more manifestations (described in Appendix 1 of Subpart I) has been diagnosed by a licensed physician. Confirmation of this diagnosis will be by contact with a physician or some other medical or treating source, such as a member of a hospital or clinic staff who is able to confirm that such a diagnosis has been made. This confirming contact may be made by telephone. Presumptive disability may be found immediately upon confirmation of the diagnosis of AIDS with manifestation(s) in Appendix 1 and need not be delayed for the receipt of the actual medical reports or records. A final disability determination will be made later when sufficient medical evidence is received by the State agency.

We are extending the expiration date in these final regulations. This presumptive disability category for AIDS will be effective through December 31, 1989. Several treatments are now being tested, and additional time is needed to be able to evaluate the efficacy of these treatments. Because of the dynamic nature of research concerning the diagnosis, evaluation, and treatment of AIDS, this impairment category will require periodic review and reassessment. We intend to carefully monitor these regulations by providing for ongoing evaluation of the impairment category to determine whether they will need to be revised and updated to reflect advancements in scientific knowledge and treatment of this disease. Therefore, these final regulations will cease to be effective after December 31, 1989, unless extended by the Secretary or revised and promulgated again as a result of the findings from the evaluation period.

Public Comments

Interested persons, organizations, and groups were invited to submit data, views or arguments pertaining to the interim regulations within a period of 60 days from the date of publication. The comment period ended on April 12, 1985. Following are our responses to the comments.

Comment: One commenter indicated that the CDC's definition of AIDS was formulated for the purpose of epidemiologic surveillance and that it may be too "restrictive" to use in determining presumptive disability. The commenter expressed concern that use of that definition may exclude claimants who are disabled, despite their not meeting the specific criteria of the CDC definition.

We did not think at the time the interim regulations were published that CDC's definition was too restrictive for the district offices to use in determining presumptive disability because, when a presumptive disability decision is made, it must be highly probable that disability will be found later when the medical evidence is obtained. We have also reviewed the revised CDC surveillance definition of AIDS (effective September 1, 1987) which defines AIDS in terms of its manifestation(s) by certain indicator diseases, including human immunodeficiency virus (HIV) encephalopathy ("HIV dementia") and HIV wasting sydrome. We have determined that individuals who meet the revised definition and are not working may be found to be presumptively disabled for Social Security purposes.

However, we agree that the CDC definition of AIDS should not be directly linked to Social Security presumptive disability determinations. CDC and SSA view AIDS from different perspectives. CDC defines AIDS for public health and other purposes that are not necessarily intended to have prognostic significance nor to designate the severity of the illness. By contrast, SSA must determine if the presumptive disability requirements of the law are met. Moreover, SSA has no control over possible future revisions of the CDC definition and uses no other program controlled definition or criteria to establish SSA presumptive disability eligibility. Therefore, although we have deleted specific reference to the CDC definition of AIDS from the regulations, we are incorporating, for purposes of these regulations, the criteria of the September 1, 1987 CDC definition of AIDS into the regulations in Appendix 1. The net effect of this change is two-fold: It includes in the regulations all the AIDS cases that meet the criteria of the CDC definition effective September 1, 1987, but it also means that future revisions to the CDC definition of AIDS will not automatically affect SSA presumptive disability determinations. However, we will look closely at any such revisions and, if appropriate for presumptive disability purposes, we will modify our eligibility criteria accordingly.

Comment: One commenter objected to the statement in the preamble to the interim rule that the district office confirm with a medical or treating source that the disease has progressed to the point that the individual is unable to work. This commenter believed that once the CDC definition of AIDS has been diagnosed, it would be redundant to ask if the claimant has the physical capacity to work.

Response: We agree with the comment. We believe that it is highly unlikely that an individual with AIDS that meets the CDC definition either before, or as of, September 1, 1987 would be able to engage in substantial gainful activity. Therefore, for purposes of making the presumptive disability decision, it would be unnecessary to ask the treating source for an opinion

regarding the individual's ability to work.

Other comments expressed favorable views about these regulations.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they only affect a small number of disability claimants under Title XVI of the Social Security Act.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: October 5, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approval: December 4, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Part 416, Subpart I, Chapter III of Title 20, Code of Federal Regulations, is amended as set forth below.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

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

Authority: Secs. 1102, 1164(a), 1619, 1631 (a) and (d)(1), and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c(a), 1382h, 1383 (a) and (d)(1), and 1383b; secs. 2, 5, 6, and 15 Pub. L. 98-460, 98 Stat. 1794, 1801, 1802, and 1808.

2. Section 416.934 is amended by revising the introductory paragraph and paragraph (k) to read as follows:

§ 416.934 Impairments which may warrant a finding of presumptive disability or presumptive blindness.

We may make findings of presumptive disability and presumptive blindness in specific impairment categories without obtaining any medical evidence. These specific impairment categories are—

* * * * *

(k) Allegation of acquired immunodeficiency syndrome (AIDS) with one or more manifestations listed in Appendix 1 of this Subpart, as diagnosed by a licensed physician; this category is effective only through December 31, 1989, unless extended by the Secretary or revised and promulgated again.

3. A new Appendix 1 is added to the end of Subpart I to read as follows:

Appendix 1 to Subpart I—Manifestations of Acquired Immunodeficiency Syndrome (AIDS)

I. Without Laboratory Evidence Regarding Human Immunodeficiency Virus (HIV) Infection

If laboratory tests for HIV were not performed or gave inconclusive results and the patient had no other cause of immunodeficiency listed in section I.A below, then any disease listed in section I.B indicates AIDS if it was diagnosed by a definitive method.

A. Causes of Immunodeficiency That Disqualify Diseases as Indicators of AIDS in the Absence of Laboratory Evidence for HIV Infection

1. High-dose or long-term systemic corticosteroid therapy or other immunosuppressive/cytotoxic therapy less than or equal to 3 months before the onset of the indicator disease.

2. Any of the following diseases diagnosed less than or equal to 3 months after diagnosis of the indicator disease: Hodgkin's disease, non-Hodgkin's lymphoma (other than primary brain lymphoma), lymphocytic leukemia, multiple myeloma, any other cancer of lymphoreticular or histiocytic tissue, or angioimmunoblastic lymphadenopathy.

3. A genetic (congenital) immunodeficiency syndrome or an acquired immunodeficiency syndrome atypical of HIV infection, such as one involving hypogammaglobulinemia.

B. Indicator Diseases Diagnosed Definitively

1. Candidiasis of the esophagus, trachea, bronchi, or lungs.

2. Cryptococcosis, extrapulmonary.

3. Cryptosporidiosis with diarrhea persisting more than 1 month.

4. Cytomegalovirus disease of an organ other than liver, spleen, or lymph nodes in a patient more than 1 month of age.

5. Herpes simplex virus infection causing a mucocutaneous ulcer that persists more than 1 month, or bronchitis, pneumonitis, or esophagitis for any duration affecting a patient more than 1 month of age.

6. Kaposi's sarcoma affecting a patient under 60 years of age.

7. Lymphoma of the brain (primary) affecting a patient under 60 years of age.

8. Lymphoid interstitial pneumonia and/or pulmonary lymphoid hyperplasia (LIP/PLH complex) affecting a child under 13 years of age.

9. *Mycobacterium avium* complex or *M. kansasii* disease, disseminated (at a site other than or in addition to lungs, skin, or cervical or hilar lymph nodes).

10 *Pneumocystis carinii* pneumonia.

11. Progressive multifocal leukoencephalopathy.

12. Toxoplasmosis of the brain affecting a patient more than 1 month of age.

II. With Laboratory Evidence for HIV Infection

Regardless of the presence of other causes of immunodeficiency (I.A), in the presence of laboratory evidence for HIV infection, any disease listed above (I.B) or below (II.A or II.B) indicates a diagnosis of AIDS.

A. Indicator Diseases Diagnosed Definitively

1. Bacterial infections, multiple or recurrent (any combination of at least 2 within a 2-year period), of the following types affecting a child under 13 years of age:

Septicemia, pneumonia, meningitis, bone or joint infection, or abscess of an internal organ or body cavity (excluding otitis media or superficial skin or mucosal abscesses), caused by *Haemophilus, Streptococcus* (including pneumococcus), or other pyogenic bacteria.

2. Coccidioidomycosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).

3. HIV encephalopathy (also called "HIV dementia," "AIDS dementia," or "subacute encephalitis due to HIV").

4. Histoplasmosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).

5. Isosporiasis with diarrhea persisting more than 1 month.

6. Kaposi's sarcoma at any age.

7. Lymphoma of the brain (primary) at any age.

8. Other non-Hodgkin's lymphoma of B-cell or unknown immunologic phenotype and the following histologic types:

a. Small noncleaved lymphoma (either Burkitt or non-Burkitt type).

b. Immunoblastic sarcoma (equivalent to any of the following, although not necessarily all in combination: immunoblastic lymphoma, large cell lymphoma, diffuse histiocytic lymphoma, diffuse undifferentiated lymphoma, or high-grade lymphoma).

Note: Lymphomas are not included here if they are of T-cell immunologic phenotype or their histologic type is not described or is described as "lymphocytic," "lymphoblastic," "small cleaved," or "plasmacytoid lymphocytic".

9. Any mycobacterial disease caused by mycobacteria other than *M. tuberculosis*, disseminated (at a site other than or in addition to lungs, skin, or cervical or hilar lymph nodes).

10. Disease caused by *M. tuberculosis*, extrapulmonary (involving at least one site outside the lungs, regardless of whether there is concurrent plumonary involvement).

11. *Salmonella* (nontyphoid) septicemia, recurrent.

12. HIV wasting syndrome (emaciation, "slim disease").

B. Indicator Diseases Diagnosed Presumptively

Note: Given the seriousness of diseases indicative of AIDS, it is generally important to diagnose them definitively, especially when therapy that would be used may have serious side effects or when definitive diagnosis is needed for eligibility for antiretroviral therapy. Nonetheless, in some situations, a patient's condition will not permit the performance of definitive tests. In other situations, accepted clinical practice may be to diagnose presumptively based on the presence of characteristic clinical and laboratory abnormalities.

1. Candidiasis of the esophagus.

2. Cytomegalovirus retinitis with loss of vision.

3. Kaposi's sarcoma.

4. Lymphoid interstitial pneumonia and/or pulmonary lymphoid hyperplasia (LIP/PLH complex) affecting a child under 13 years of age.

5. Mycobacterial disease (acid-fast bacilli with species not identified by culture), disseminated (involving at least one site other than or in addition to lungs, skin, or cervical or hilar lymph nodes).

6. *Pneumocystis carinii* pneumonia.

7. Toxoplasmosis of the brain affecting a patient more than 1 month of age.

III. With Laboratory Evidence Against HIV Infection

With laboratory test results negative for HIV infection a diagnosis of AIDS is ruled out *unless:*

A. All the other causes of immunodeficiency listed above in section I.A are excluded; AND.

B. The patient has had either:

1. *Pneumocystis carinii* pneumonia diagnosed by a definitive method; OR.

2. a. Any of the other diseases indicative of AIDS listed above in section I.B diagnosed by a definitive method; AND.

b. A T-helper/inducer (CD4) lymphocyte count under 400/mm^3.

[FR Doc. 88-2722 Filed 2-8-88; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 133

[Docket No. 86P-0436]

Mozzarella Cheeses; Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for mozzarella cheese, low-moisture mozzarella cheese, and, by cross-reference, part-skim mozzarella cheese and low-moisture part-skim mozzarella cheese to provide for the optional use of water buffalo milk. The agency is also amending the standards to update the formats and language and to provide for functional group designations of safe and suitable optional ingredients. This action, based on a petition submitted by De Choix Specialty Foods Co. is to promote honesty and fair dealing in the interest of consumers by allowing increased flexibility in the use of certain food ingredients.

DATES: Effective April 11, 1988; compliance may begin April 11, 1988; objections by March 10, 1988.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION:

I. The Proposal

In the **Federal Register** of April 17, 1987 (52 FR 12556), FDA published a proposal, based on a petition from De Choix Specialty Foods Co., 58-25 52d Ave., Woodside, NY 11377, to (1) amend the standard of identity for mozzarella cheese (21 CFR 133.155) and low-moisture mozzarella cheese (21 CFR 133.156), and, by cross reference, the standards of identity for part-skim mozzarella cheese (21 CFR 133.157) and part-skim low-moisture mozzarella cheese (21 CFR 133.158) to provide for the optional use of water buffalo milk; (2) update the formats and language of the standards; and (3) provide for functional group designations of safe and suitable optional ingredients. Interested persons were given until June 16, 1987, to comment on the proposal.

Four letters, containing one or more comments, were received from the food industry in response to the proposal. One comment supported the proposal. Another questioned the agency's priorities for issuing regulations, in general, but did not address the specific provisions of the proposal. The remaining comments expressed concern about the provision for the use of water buffalo milk. A discussion of the specific comments and the agency's responses follow.

1. One comment contended that the proposal would permit the blending of water buffalo milk in limitless proportions. Another stated that the proposal should include a restriction that mozzarella cheese be made only from 100 percent cow's milk or 100 percent water buffalo milk.

The agency points out that the proposed amendments were intended to provide for the use of only cow's milk or only water buffalo milk, and not blends of the dairy ingredients of the two species. To further clarify the meaning of the regulations, the agency has revised paragraph (b)(1) of §§ 133.155 and 133.156 to state that the optional dairy ingredients are cow's milk or water buffalo milk and that the optional forms of the dairy ingredients of the two species are not blended in the manufacture of the cheese.

2. One comment stated that consumers would be confused if water buffalo milk is used in the food and its use is not declared as part of the name of the food.

The agency agrees with the comment and is providing, in paragraph (c) of §§ 133.155 and 133.156, that the phrase "made with water buffalo milk" accompany the name of the cheese when it is made with water buffalo milk.

After considering the comments received, the agency concludes that the proposed amendments are reasonable and that the amendments, as set out below, will promote honesty and fair dealing in the interest of consumers. Accordingly, the agency is amending the standards of identity for mozzarella cheese and low-moisture mozzarella cheese, and by cross-reference, the standards for part-skim mozzarella cheese and low-moisture part-skim mozzarella cheese, as set out below.

II. Related Pending Actions

FDA published in the **Federal Register** of July 19, 1984 (49 FR 29242) a proposal to amend the regulations for label designation of ingredients (21 CFR 101.4(b) (22)) to permit enzymes of animal, plant, or microbial origin used in cheese and cheese products to be declared as "enzymes". Should this proposed change in the labeling regulations become effective before the amendments set out below become effective, the labeling provisions in the amendments will be changed to reference the new 21 CFR 101.4(b)(22).

III. Economic Impact

In the preamble to the proposal (52 FR 12556), the impact of the proposed amendments on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601). Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a

substantial number of small entities will derive from this action.

IV. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 10, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. The authority citation for 21 CFR Part 133 continues to read as follows:

Authority: Secs. 401, 701(e) 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)); 21 CFR 5.10 and 5.61.

2. Section 133.155 is revised to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

(a) *Description.* (1) Mozzarella cheese, scamorza cheese is the food prepared from dairy ingredients and other ingredients specified in this section by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It may be molded into various shapes. The minimum milkfat content is 45 percent by weight of the solids, and the moisture content is more than 52 percent but not more than 60 percent by weight as determined by the methods described in § 133.5. The dairy ingredients are pasteurized.

(2) The phenol equivalent value of 0.25 gram of mozzarella cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is warmed to approximately 88 °F (31.1 °C) and subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut, and it may be stirred to facilitate separation of whey from the curd. The whey is drained, and the curd may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and for ripening. The curd may be iced, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps. It is then cut and molded. The molded curd is firmed by immersion in cold water and drained. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Cow's milk, nonfat milk, or cream, as defined in § 133.3, or the corresponding products of water buffalo origin, except that cow's milk products are not combined with water buffalo products.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Vinegar.

(ii) Coloring to mask any natural yellow color in the curd.

(ii) Salt.

(iv) Antimycotics, the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surfact of the cheese.

(c) *Nomenclature.* The name of the food is "mozzarella cheese" or, alternatively, "scamorza cheese". When the food is made with water buffalo milk, the name of the food is accompanied by the phrase "made with water buffalo milk".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the lable as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", "milkfat from water buffalo milk and nonfat buffalo milk" or "nonfat water buffalo milk and milkfat from water buffalo milk," as appropriate.

3. Section 133.156 is revised to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

(a) *Description.* (1) Low-moisture mozzarella cheese, low-moisture scamorza cheese is the food prepared from dairy ingredients and other ingredients specified in this section by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It may be molded into various shapes. The minimum milkfat content is 45 percent by weight of the solids and the moisture content is more than 45 percent but not more than 52 percent by weight as determined by the methods described in § 133.5. The dairy ingredients are pasteurized.

(2) The phenol equivalent value of 0.25 gram of low-moisture mozzarella cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this action is added to set the dairy ingredients to a semisolid mass. The mass is cut, stirred, and allowed to stand. It may be reheated and again stirred. The whey is drained and the curd may be cut and piled to promote further separation of whey. It may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and for ripening. The curd may be iced, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is

immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps. It is then cut and molded. In molding, the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is firmed by immersion in cold water and drained. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Cow's milk, nonfat milk, or cream, as defined in § 133.3, or the corresponding products of water buffalo origin, except that cow's milk products are not combined with water buffalo products.

(2) *Clotting enzymes.* Rennet and/or clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Vinegar.

(ii) Coloring to mask any natural yellow color in the curd.

(iii) Salt.

(iv) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(v) Antimycotics, the cumulative levels of which shall not exceed current good manufacturing practices, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

(c) *Nomenclature.* The names of the food is "low-moisture mozzarella cheese" or, alternatively, "low-moisture scamorza cheese". When the food is made with water buffalo milk, the name of the food is accompanied by the phrase "made with water buffalo milk".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of the chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", "milkfat from water buffalo milk and nonfat water buffalo milk" or "nonfat water buffalo milk and milkfat from water buffalo milk", as appropriate.

Dated: February 2, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-2637 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Beta-hydroxy-3-methylfentanyl into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule, correction.

SUMMARY: This document corrects the final order published on January 8, 1988 (53 FR 500) by which the Administrator of the Drug Enforcement Administration (DEA) placed the narcotic substance, beta-hydroxy-3-methylfentanyl, into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The drug code for beta-hydroxy-3-methylfentanyl should be 9831.

EFFECTIVE DATE: February 9, 1988.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

Beta-hydroxy-3-methylfentanyl, a potent synthetic narcotic substance, was placed into Schedule I of the CSA pursuant to 21 U.S.C. 811(a) by the Administrator of the DEA by a final order published in the **Federal Register** on January 8, 1988 (53 FR 500). The drug code for beta-hydroxy-3-methylfentanyl was erroneously listed as 9830 which is the drug code for beta-hydroxyfentanyl.

The correct drug code for beta-hydroxy-3-methylfentanyl is 9831. Accordingly § 1308.11(b)(12) on page 501 of the final order published on January 8, 1988 should read:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide . 9831

* * * * *

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: February 1, 1988.

[FR Doc. 88-2635 Filed 2-8-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 260

State Education and Training Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending 23 CFR Part 260 to implement section 131 of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987 enacted on April 2, 1987. Section 131 of the STURAA amends section 321 of Title 23, United States Code, by allowing the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute. The provisions contained in 23 CFR Part 260 addressing the administration of Federal-aid funds for education and training of State and local highway department employees are revised to reflect the statutory amendment.

EFFECTIVE DATE: April 2, 1987.

FOR FURTHER INFORMATION CONTACT: Larry Jones, National Highway Institute, (703) 285-2779, or Michael J. Laska, Office of the Chief Counsel (202-366-1383), Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC. Office hours are 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA), (Pub. L. 100-17, 101 Stat. 132) was enacted on April 2, 1987. Section 131 of the STURAA amended 23 U.S.C. 321 which authorizes Federal-aid funds for the education and training of State and local highway agency employees engaged or to be engaged in Federal-aid highway work. The provisions of section 321 were modified to provide training at no cost to States and local governments for subject areas which are a Federal program responsibility and to allow the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute. The provisions contained in 23 CFR 260.407, Implementation and reimbursement, are being revised to reflect the statutory modification.

The FHWA has determined that this document does not contain a major rule

under Executive order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the revision in this document is being issued for the purpose of literally complying with statutory language mandated by section 131 of the STURRA of 1987, public comment is impracticable and unnecessary. Therefore, the FHWA finds good cause to make the revisions final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information since the revisions incorporated in the regulation require no interpretation and provide for no discretion. It is anticipated that the economic impact of this rulemaking, although mandated by the statutory provisions themselves, will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the FHWA is amending Part 260, Subpart D of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 260

Grant programs—transportation, Highways and roads, Scholarships and fellowships.

Issued on: February 3, 1988.

R.D. Morgan,

Executive Director, Federal Highway Administration.

The Federal Highway Administration hereby amends Title 23, Code of Federal Regulations, Chapter I, Part 260, as set forth below.

PART 260—EDUCATION AND TRAINING PROGRAMS

1. The authority citation for Part 260 continues to read as follows:

Authority: 23 U.S.C. 315, 321 (b) and (c); 49 CFR 1.48(b).

Subpart D—State Education and Training Programs

2. Section 260.407 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 260.407 Implementation and reimbursement.

(a) After execution of the fiscal agreement, the State may make grants and contracts with public and private agencies, institutions, individuals, and the National Highway Institute to provide highway-related training and education. The principal recipients of this training shall be employees who are engaged or likely to be engaged, in Federal-aid highway work.

* * * * *

(c) As provided in 23 U.S.C. 321(c), education and training for subject areas that are identified by the FHWA as Federal program responsibilities, shall be provided at no cost to State and local governments.

[FR Doc. 88-2641 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-267; Re: Notice No. 635]

Western Connecticut Highlands Viticultural Area; CT

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Connecticut known as Western Connecticut Highlands. The viticultural area is made up of all of Litchfield County and parts of Fairfield, New Haven and Hartford Counties. This final rule is based on a notice of proposed rulemaking published in the Federal Register on August 11, 1987, at 52 FR 29705, Notice No. 635. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR, Part 4. These regulations allow the establishment of definite viticultural areas.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguished by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2) outlines the procedure for proposing a viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF received a petition for a viticultural area encompassing the western highlands area of Connecticut which borders on New York and Massachusetts. The viticultural area is known as Western Connecticut Highlands. The petition was submitted by Mr. & Mrs. William Hopkins of Hopkins Vineyard, New Preston, Connecticut.

Within the Western Connecticut Highlands viticultural area there are four wineries, with others being

established. In addition, there are six grape growers. Overall the area covers approximately 1,570 square miles or 1,004,550 acres.

Evidence of Name

The name Western Connecticut Highlands is descriptive of the rolling hills and small mountains in the western part of Connecticut which are different from the surrounding area in Connecticut, southwestern Massachusetts and southeastern New York state.

The petitioner provided documentation from various sources to support only the name Western Highlands. The name Western Highlands has been used by the Connecticut Agricultural Experimental Station, and the U.S. Soil Conservation Service in the publication *Soils of Connecticut,* Bulletin #787, Dec. 1960, by Hill, Sauter and Gonick, to describe the area. The name Western Highlands is also commonly referred to on the General Soil Map of Connecticut. The petitioner also included excerpts from the book *Connecticut: A New Guide* by William Bixby (Scribner's, 1974). The excerpts gave a description of the Western Highlands region as well as other regions of Connecticut.

The petitioner acknowledges that the area is locally called Western Highlands. However, the petitioner chose the viticultural area name Western Connecticut Highlands because that name would distinguish the area from all other highland areas in the United States. ATF has no objection to the viticultural area name Western Connecticut Highlands since evidence of the name Western Highlands was well documented in the petition and the further qualification "Connecticut" accurately describes the geographic location of this grape-growing region.

Evidence of Boundaries

The boundaries of the viticultural area are based on distinguishing geographic features as well as established and proposed grape-growing in the area. One U.S.G.S. map was submitted by the petitioner with the boundaries prominently marked on it. The basis for recognition of these boundaries is supported by the unique name, geography and climate found only in this section of Connecticut.

Evidence of Geographic Features

(a) Physical Features

The State of Connecticut can be divided into four physiographic zones: (1) The Coastal Lowlands or Coastal Plain (Long Island Sound influence), (2) the Central Lowlands or Central Valley (Connecticut River influence), (3) the Western Highlands and (4) the Eastern Highlands.

The Coastal Lowlands and Central Valley have elevations ranging from 0 to less than 500 feet above sea level. The long broad Central Valley actually begins far to the north in New Hampshire, Vermont and Massachusetts.

The Western and Eastern Highlands are somewhat similar in climate and other features but are geographically separated by the Central Valley. There are some bonded wineries and grape growers in the Eastern Highlands. There are no bonded wineries located in the Central Valley.

The Western Highlands are an extension of the Green Mountain and Taconic Ranges to the north in Massachusetts with the general elevation in the viticultural area varying from 200 to 1,500 feet above sea level. The Western Highlands are generally more rugged than the corresponding Eastern Highlands which have altitudes varying from 200 to 1,000 feet above sea level.

(b) Precipitation

Snowfall is heavier in the Western Connecticut Highlands than anywhere else in the state, and ranges from 35 to 100 inches annually. Long-term records indicate that there is considerable variation in seasonal amounts of snowfall in the viticultural area; in one location more than 130 inches fell in one year, during another year at the same location only 37 inches fell. Snowfall varies throughout the State; lighter along the Coastal Lowlands and heavier in the northwest portion of the viticultural area. The northwestern portion of the viticultural area receives about 100 inches of snow annually. At the Coastal Lowlands the average annual rainfall is lower than in the Western Highlands.

(c) Temperature

The Eastern and Western Highlands have mean annual temperatures of 47 °F. and 46 °F., respectively. The mean annual temperature for the Coastal Lowlands is 50 °F. and the Central Valley is 49°. Because of their relatively low elevation the Coastal Lowlands and Central Valley have warmer climates than the viticultural area. The climate of the Coastal Lowlands and to some extent the climate of the Central Valley are also greatly influenced by the moderating effect of the Long Island Sound.

The winters in Connecticut are not as long, or as severe, as they are in the northern New England states. In the fall, freezing temperatures throughout the Connecticut regions usually begin about the middle of November, and end by the last week in March along the Coastal Lowlands and early in April in the Western and Eastern Highlands.

The area to the west of the viticultural area is the Hudson River Region, a complex distinct geological region characterized by the Hudson River Valley and surrounding hills. This area has been a grape-growing region for over 300 years. In 1982, the Hudson River Region (encompassing approximately 3,500 square miles) was established as an American viticultural area.

Immediately north of the viticultural area is the Berkshire Mountain region of Massachusetts and further north is the Green Mountain Range. The Berkshire Mountain region is similar in broad physiography to the viticultural area.

However, it is further north than the Western Connecticut Highlands and has a slightly cooler climate. The elevation is higher in the Green Mountain Range which is further into the northern interior, resulting in a more rugged terrain, colder average temperatures, and a shorter growing season than the viticutural area and the Berkshire Mountain Range.

(d) Soils and Geography

The soils within the Western Connecticut Highlands viticultural area are predominantly formed in glacial till derived from gneiss, schist and granite. The Hollis-Charlton, Paxton-Woodbridge, Charlton-Hollis, and Stockbridge-Farmington-Amenia soils are the most commonly found soil series of the Western Connecticut Highlands. The Eastern Highlands also have the same soils except that the Stockbridge-Farmington-Amenia soils are only found in the Western Connecticut Highlands.

The north-south strip of lowland bisected by the Connecticut River comprises the Central Valley, which extends northerly from the Long Island Sound into Massachusetts. Although broken with occasional traprock ridges, most of the land is gently sloping with productive agricultural soils.

The Central Valley is dominated by soils formed in glacial till derived from sandstone, shale, conglomerate and basalt.

The Wethersfield-Holyoke-Broadbrook, Penwood-Manchester, Windsor-Ninigret-Merrimac, Elmwood-Buxton-Scantic, and Hadley-Winooski soils are the most commonly found soil series of the Central Valley. These soil series are not found in the Western or Eastern Highlands.

Connecticut's southern boundary is formed by 253 miles of irregular shoreline on the Long Island Sound. Along this shore stretches a narrow strip of fairly level land designated as the Coastal Lowlands. The coastline is chararacterized by alternating limited sections of sandy beach, rocky bluffs, and salt water marshes, indented with numerous small coves and inlets. This area is greatly influenced by the moderating temperatures of the Long Island Sound.

Notice of Proposed Rulemaking

On August 11, 1987, Notice No. 635 was published in the **Federal Register** with a 45-day comment period. In that Notice, ATF invited comments from all interested parties regarding the proposal to establish "Western Connecticut Highlands" as an American viticultural area. No comments were received from the public during the comment period.

Miscellaneous

ATF does not wish to give the impression by approving "Western Connecticut Highlands" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this viticultural area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "Western Connecticut Highlands."

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605 (b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in:

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

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

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

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Edward A. Reisman, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

27 CFR Part 9—American Viticultural areas is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in 27 CFR Part 9, Subpart C, is amended to add the title of 9.122 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.122 Western Connecticut Highlands.

Par. 3. Subpart C is amended by adding § 9.122 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.122 Western Connecticut Highlands.

(a) *Name.* The name of the viticultural area described in this section is "Western Connecticut Highlands."

(b) *Approved map.* The approved map for determining the boundaries of the "Western Connecticut Highlands" viticultural area is 1 U.S.G.S. 1:125,000 series map. It is titled State of Connecticut, Compiled in 1965, Edition of 1966.

(c) *Boundary description.* The boundaries of the proposed Western Connecticut Highlands viticultural area are as follows:

(1) The beginning point is where Connecticut Route #15 (Merritt Parkway) meets the Connecticut-New York State line near Glenville, CT, in the Town of Greenwich.

(2) The boundary goes approximately 80 miles northerly along the Connecticut-New York State line to the northwest corner of Connecticut at the Town of Salisbury (Connecticut-New York-Massachusetts State line);

(3) The boundary proceeds approximately 32 miles east along the Connecticut-Massachusetts State line to the northeast border of the Town of Hartland;

(4) The boundary runs approximately 5 miles south along the eastern boundary of the Town of Hartland to the northeast corner of the Town of Barkhamstead (Litchfield-Hartford County line);

(5) The boundary then goes south approximately 25 miles along the Litchfield-Hartford County line to the southeast corner of the Town of Plymouth (Litchfield-Hartford-New Haven County line);

(6) The boundary then travels approximately 7 miles west along the Litchfield-New Haven County line to Connecticut Route #8 at Waterville in the Town of Waterbury;

(7) The boundary proceeds approximately 25 miles south along Connecticut Route #8 to the intersection of Connecticut Route 15 (Merritt Parkway) near Nichols in the Town of Trumbull;

(8) The boundary travels approximately 32 miles west along Connecticut Route 15 (Merritt Parkway) to the beginning point.

Signed: January 11, 1988.

Stephen E. Higgins,

Director.

Approved: January 19, 1988.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement).

[FR Doc. 88-2541 Filed 2-8-88; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Upper Delaware Scenic and Recreational River, Pennsylvania and New York; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On August 24, 1987, the National Park Service, Department of the Interior, published in the **Federal Register** (52 FR 31788) a proposed rule to permit fishing methods at Upper Delaware Scenic and Recreational River which are authorized under applicable State laws. This proposal was made available for public review and comment for a period of thirty (30) days following publication in the **Federal Register**, and ending on September 23, 1987. Six comments were received, and all comments were positive. As a result, a final regulation, unchanged from the proposed rule, is published to permit a level of public use and enjoyment of park resources consistent with the legislation that established the Upper Delaware Scenic and Recreational River.

EFFECTIVE DATE: March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Glenn H. Voss, Chief Ranger, Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764-0159, Telephone: (717) 729-7134.

SUPPLEMENTARY INFORMATION:

Background

National Park Service General Regulations (36 CFR 2.3(d)(1), which became effective on April 30, 1984, prohibit "Fishing in fresh water in any manner other than by hook and line, with the rod or line being closely attended." This regulation is in conflict with Pennsylvania and New York fishing regulations which have been in effect since Upper Delaware Scenic and Recreational River was authorized in 1978 and for many years prior to its authorization. Examples of conflicts include:

1. Pennsylvania permits the use of spears or gigs to take carp, gar, suckers and eels. New York regulations allow for the use of spears and long bows for the taking of bowfin, eels, carp, suckers, catfish, gar, turbot, redhorse, sheepshead, herring, and bullheads.

2. Both states permit the use of seines for getting bait, digging for lampreys, and a maximum of five (5) tip-ups or five (5) give devices (tip-ups, rods, handlines) for ice fishing.

Congress' stated intent in the enabling legislation for Upper Delaware Scenic and Recreational River was for the National Park Service to manage fishing in a manner consistent with State fishing laws, to the extent compatible with proper management of park resources. The National Park Service has determined that allowing recreational fishing at Upper Delaware Scenic and Recreational River in accordance with methods permitted by the States of Pennsylvania and New York would be advantageous both to visitors use, as well as to the management of the park resources. The species of fish to be taken under Example 1 above consist of exotics as well as native species that cannot be taken effectively by traditional rod and reel methods. The use of seines for bait collection, digging of lamprey eels, and the use of tip-ups for ice fishing, as in Example 2 above, are all traditional uses by the Delaware River anglers. In addition, the regulations of both the New York Department of Environmental Conservation, and the Pennsylvania Fish Commission allow these methods of capture. Many years of using these traditional fishing methods have not been detrimental to the area, and the National Park Service anticipates no detrimental effects from continuing these methods. If these methods should cause harm to the fishery or other resources in the future, they can be prohibited by designating areas closed to certain fishing methods.

Drafting Information

The principal author of this rulemaking is Glenn H. Voss, Chief Ranger, Upper Delaware Scenic and Recreational River.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule will contribute in some part to the local tourism of communities in the vicinity of the park by assuring the continued availability of the range of recreational activities that has been available to park users in the past. An Environmental Assessment has been prepared with a finding of No Significant Impact for this rulemaking. These documents are available for review at the address noted at the beginning of this rulemaking.

List of Subject in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k). Section 7.96 also issued under DC Code 8-137 (1981) and DC Code 40-721 (1981).

2. By adding a new § 7.24, to read as follows:

§ 7.24 Upper Delaware Scenic and Recreational River.

(a) *Fishing.* Fishing in any manner authorized under applicable State law is allowed.

(b) [Reserved]

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: January 6, 1988.

[FR Doc. 88-2680 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

43 CFR Part 2

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Interior Department revises its regulations on the implementation of the Privacy Act of 1974, as amended, to make them compatible with regulations of the Office of Personnel Management (OPM) concerning personnel records maintained in the Department but under the jurisdiction of OPM.

EFFECTIVE DATE: March 10, 1988.

FOR FURTHER INFORMATION CONTACT: David R. DeAngelis, 202-343-6191.

SUPPLEMENTARY INFORMATION: The Department's regulations published in 43 CFR Part 2, Subpart D, provide guidelines and procedures for implementing the provisions of the Privacy Act of 1974. The rules require that all appeals submitted by individuals regarding the denial of access to, or amendment of their records are to be sent to the Department's Assistant Secretary—Policy, Budget and Administration. However, rules published by the Office of Personnel Management (OPM) in 5 CFR Part 297 require that any appeals filed by individuals pertaining to OPM Governmentwide personnel records being maintained in any agency are to be filed directly with OPM. This rule will amend the Department's regulations to make them consistent with the OPM

regulations by providing that any appeals regarding personnel records under the jurisdiction of OPM are to be submitted directly to OPM. Also, other technical amendments are being made at various places throughout the regulations to improve format and streamline the text.

Because the regulations pertain primarily to internal Departmental guidelines and procedures on the implementation of the Privacy Act of 1974, the changes being made will not have a substantial impact on the public. However, the public interest will be served by accelerated publication of the revised rules so that current and up-to-date guidelines are available, not only for Departmental officials to use in administering the provisions of the Privacy Act, but also to inform members of the public and ensure that pertinent Privacy Act appeals are handled in a proper manner. Also, the public interest will be served by publishing these changes as final rules and eliminating the redundant **Federal Register** publication cost involved in a proposed rulemaking and public comment procedure. For the foregoing reasons, and since these changes are strictly administrative in nature and pertain to this agency's procedures and practices, the proposed rulemaking process is determined to be unnecessary and impractical (5 U.S.C. 553(b)(B)).

Since this document concerns only agency management, it is not a rule as defined by E.O. 12291, and the Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The author of this document is Mr. David R. DeAngelis, Office of Management Analysis.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Freedom of Information, Privacy.

Rick Ventura,

Assistant Secretary of the Interior.

Dated: January 30, 1988.

For the reasons set out in the preamble, 43 CFR Part 2, Subpart D, is amended as set forth below.

PART 2—[AMENDED]

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

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460, unless otherwise noted.

2. Section 2.46 is amended by adding paragraph (o) to read as follows:

§ 2.46 Definitions.

* * * * *

(o) *Working day.* As used in this subpart, "working day" means a regular Federal work day. It does not include Saturdays, Sundays or public legal holidays.

3. Section 2.61 is amended by revising paragraph (c)(2) and by adding new paragraphs (c)(3) and (c)(4) to read as follows:

§ 2.61 Request for notification of existence of records: Action on.

* * * * *

(c) * * *

(2) A decision declining to inform an individual whether or not a system of records contains records pertaining to him or her shall be in writing and shall:

(i) State the basis for denial of the request.

(ii) Advise the individual that an appeal of the declination may be made to the Assistant Secretary—Policy, Budget and Administration pursuant to § 2.65 by writing to the Privacy Act Officer, Office of the Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.

(iii) State that the appeal must be received by the foregoing official within twenty (20) working days of the date of the decision.

(3) If the decision declining a request for notification of the existence of records involves Department employee records which fall under the jurisdiction of the Office of Personnel Management, the individual shall be informed in a written response which shall:

(i) State the reasons for the denial.

(ii) Include the name, position title, and address of the official responsible for the denial.

(iii) Advise the individual that an appeal of the declination may be made only to the Assistant Director for Workforce Information, Personnel Systems Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(4) Copies of decisions declining a request for notification of the existence or records made pursuant to paragraphs (c)(2) and (c)(3) of this section shall be provided to the Departmental and Bureau Privacy Act Officers.

4. Section 2.64 is amended by revising paragraph (c)(2) and by adding new paragraphs (c)(3) and (c)(4) to read as follows:

§ 2.64 Requests for access to records: Initial decision.

* * * * *

(c) * * *

(2) A decision denying a request for access, in whole or part, shall be in writing and shall:

(i) State the basis for denial of the request.

(ii) Contain a statement that the denial may be appealed to the Assistant Secretary—Policy, Budget and Administration pursuant to § 2.65 by writing to the Privacy Act Officer, Office of the Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.

(iii) State that the appeal must be received by the foregoing official within twenty (20) working days of the date of the decision.

(3) If the decision denying a request for access involves Department employee records which fall under the jurisdiction of the Office of Personnel Management, the individual shall be informed in a written response which shall:

(i) State the reasons for the denial.

(ii) Include the name, position title, and address of the official responsible for the denial.

(iii) Advise the individual that an appeal of the denial may be made only to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(4) Copies of decisions denying requests for access made pursuant to paragraphs (c)(2) and (c)(3) of this section will be provided to the Departmental and Bureau Privacy Act Officers.

* * * * *

5. Section 2.65 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.65 Requests for notification of existence of records and for access to records: Appeals.

(a) *Right of appeal.* Except for appeals pertaining to Office of Personnel Management records, individuals who have been notified that they are not entitled to notification of whether a system of records contains records pertaining to them or have been denied access, in whole or part, to a requested record may appeal to the Assistant Secretary—Policy, Budget and Administration.

(b) *Time for appeal.* (1) An appeal must be received by the Privacy Act Officer no later than twenty (20)

working days after the date of the initial decision on a request.

(2) The Assistant Secretary—Policy, Budget and Administration may, for good cause shown, extend the time for submission of an appeal if a written request for additional time is received within twenty (20) working days of the date of the initial decision on the request.

* * * * *

6. Section 2.72 is amended by revising paragraphs (c) and (e)(2), and by adding new paragraphs (e)(3) and (e)(4) to read as follows:

§ 2.72 Petitions for amendment: Processing and initial decision.

* * * * *

(c) *Acknowledgement of receipt.* Unless processing of a petition is completed within ten (10) working days, the receipt of the petition for amendment shall be acknowledged in writing by the system manager to whom it is directed.

* * * * *

(e) * * *

(2) If the petition for amendment is rejected, in whole or part, the petitioner shall be informed in a written response which shall:

(i) State concisely the basis for the decision.

(ii) Advise the petitioner that the rejection may be appealed to the Assistant Secretary—Policy, Budget and Administration by writing to the Privacy Act Officer, Office of the Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.

(iii) State that the appeal must be received by the foregoing official within twenty (20) working days of the decision.

(3) If the petition for amendment involves Department employee records which fall under the jurisdiction of the Office of Personnel Management and is rejected, in whole or part, the petitioner shall be informed in a written response which shall:

(i) State concisely the basis for the decision.

(ii) Advise the petitioner that an appeal of the rejection may be made pursuant to 5 CFR 297.306 only to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

(4) Copies of rejections of petitions for amendment made pursuant to paragraphs (e)(2) and (e)(3) of this section will be provided to the Departmental and Bureau Privacy Act Officers.

* * * * *

7. Section 2.73 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.73 Petitions for amendment: Time limits for processing.

(a) *Acknowledgement of receipt.* The acknowledgement of receipt of a petition required by § 2.72(c) shall be dispatched not later than ten (10) working days after receipt of the petition by the system manager responsible for the system containing the challenged record, unless a decision on the petition has been previously dispatched.

(b) *Decision on petition.* A petition for amendment shall be processed promptly. A determination whether to accept or reject the petition for amendment shall be made within thirty (30) working days after receipt of the petition by the system manager responsible for the system containing the challenged record.

* * * * *

8. Section 2.74 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.74 Petitions for amendment: Appeals.

(a) *Right of appeal.* Except for appeals pertaining to Office of Personnel Management records, where a petition for amendment has been rejected in whole or in part, the individual submitting the petition may appeal the denial to the Assistant Secretary—Policy, Budget and Administration.

(b) *Time for appeal.* (1) An appeal must be received no later than twenty (20) working days after the date of the decision on a petition.

(2) The Assistant Secretary—Policy, Budget and Administration may, for good cause shown, extend the time for submission of an appeal if a written request for additional time is received within twenty (20) working days of the date of the decision on a petition.

* * * * *

9. Section 2.75 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 2.75 Petitions for amendment: Action on appeals.

(a) *Authority.* Appeals from decisions on initial petitions for amendment shall be decided for the Department by the Assistant Secretary—Policy, Budget and Administration or an official designated by the Assistant Secretary, after consultation with the Solicitor.

(b) *Time limit.* (1) A final determination on any appeal shall be made within thirty (30) working days after receipt of the appeal.

* * * * *

[FR Doc. 88-2677 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

43 CFR Public Land Order 6663

[OR-943-07-4220-10-GP-07-292; OR-38296]

Withdrawal of Public Land for Wild Horse Administrative Site, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 122.59 acres of public land from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the Wild Horse Administrative Site. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: February 9, 1988.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a Bureau of Land Management administrative site:

Willamette Meridian

T. 24 S., R. 30 E.,

Sec. 6, lot 2, E½ of lot 3, NE¼ of lot 4, W½SE¼NW¼, W½NE¼SW¼, and NW¼SE¼SW¼.

The area described contains 122.59 acres in Harney County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary

determines that the withdrawal shall be extended.

January 27, 1988.

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 88-2678 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[FCC 88-8]

Waiver of Rules To License Six 900 MHz Frequencies for an Advanced Train Control System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted an Order to enable the Association of American Railroads (AAR) to construct and operate an Advanced Train Control System. The Order waives five rules in 47 CFR Part 90.

EFFECTIVE DATE: January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Irene Bleiweiss, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, Application File Nos. 551211 et al., adopted on January 14, 1988 and released January 29, 1988.

The full text of the Order is available for inspection and copying during normal business hours in the FCC Private Radio Bureau, Land Mobile and Microwave Division, Rules Branch (Room 5126), 2025 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Order

1. Between December 29, 1986 and March 31, 1987, the Association of American Railroads (AAR) filed 756 license applications for 2,059 land mobile base stations and 30,000 mobile units. AAR intends to file applications for another 941 base locations. If its applications are approved, AAR will construct and operate an "Advanced Train Control System" using six 900 MHz channels. The proposed system would automate rail operations nationwide, enabling major improvements in railroad safety, efficiency, and economy. For example, the system could determine the location of trains nationwide, operate switches, alert engineers to potential safety hazards, and even take full control of locomotives to prevent accidents. The system would be the largest land mobile communications system in the United States and would connect with a similar system proposed in Canada.

2. The proposed system would dramatically improve railroad safety and efficiency in furtherance of the Commission's directive to facilitate communications systems which "promote the safety of life and property." A few of the system's operating requirements, however, cannot be met under our existing Rules. The Advanced Train Control System is designed to use six channels operating in the conventional mode although the Rules would permit a maximum of five channels in that mode of operation. AAR states that it will need ten years to construct the system while the Rules would only allow AAR between 8 months and 3 years. AAR requests exclusive use of the six channels at each present and future location nationwide although the Rules do not provide for nationwide exclusivity and although AAR may not meet loading requirements. The reporting requirements in the Rules also are inconsistent with AAR's plan. AAR asked the Commission to waive these Rules.

3. The Commission's Order determines that there is good cause to grant many of AAR's waiver requests. The Order grants AAR a waiver enabling it to operate six conventional channels at all locations. The Order also extends the construction deadline to ten years and modifies applicable reporting requirements. The Commission's Order does not grant AAR's request for waiver of loading standards or for nationwide exclusivity because the extent of relief sought is not necessary. Instead, the Commission addresses AAR's concerns by establishing a plan giving AAR the flexibility and protection it needs while allowing other compatible applicants to be considered for the frequencies if no alternative frequencies are available.

Ordering Clause

4. Accordingly, pursuant to §§ 1.3, 1.103, and 90.151 of the Commission's Rules, and in view of the discussion above, it is ordered that:

(1) The provisions of 47 CFR 90.623(a) are hereby waived to permit the Advanced Train Control System to operate the following six frequency pairs in the conventional mode: (a) 896.8875/935.8875 MHz; (b) 896.9375/935.9375 MHz; (c) 896.9875/935.9875 MHz; (d) 897.8875/936.8875 MHz; (e) 897.9375/936.9375 MHz; and (f) 897.9875/936.9875 MHz;

(2) The Private Radio Bureau shall take action consistent with this Order to license the Association of American Railroads (AAR) to use the frequencies identified above;

(3) The provisions of 47 CFR 90.629, 90.633(c), and 90.633(d) are hereby waived to grant AAR ten years from the release date of this Order to complete construction of the Advanced Train Control System and to put the system into full operation;

(4) The reporting requirements in 47 CFR 90.651(c) are hereby waived and the reporting requirements in 47 CFR 90.629(b) are modified, as set forth in this Order;

(5) The provisions of 47 CFR 90.621(d) are hereby modified during the ten year construction period to afford AAR an 80 mile zone of protection around each base station location proposed. After the construction period a normal zone of protection shall apply to those base stations that meet the loading requirements in 47 CFR 90.625(a) and 90.633(a). No zone of protection shall be given automatically to those base stations that do not meet loading requirements at the end of the construction period but specific requests for protection will be considered at that time;

(6) The six frequency pairs identified above shall be made available to other compatible users, subject to the conditions discussed in this Order.

List of Subjects in 47 CFR Part 90

Waiver, Land transportation radio services, Radio.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-2657 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

Department of Defense Federal Acquisition Regulation Supplement; Prompt Payment

AGENCY: Department of Defense (DOD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved revisions to Parts 232 and 252 of the DOD FAR Supplement (DFARS) to provide supplementary coverage for policies and procedures necessary to

implement Office of Management and Budget (OMB) Circular A-125, "Prompt Payment".

EFFECTIVE DATE: February 16, 1988.

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

SUPPLEMENTARY INFORMATION:

A. Background

When OMB Circular A-125 was initially issued in August 1982, the Federal agencies provided implementing instructions through their individual procurement regulations. These regulations were later superseded by the FAR in April 1984. Because the FAR did not specifically include coverage on OMB Circular A-125, the Federal agencies continued to provide implementing instructions through their respective FAR Supplements. Later, as problems surfaced and amendments were issued to OMB Circular A-125, it became increasingly necessary to establish uniform coverage in the FAR.

A proposed rule for FAR Subpart 32.9 was published for public comment in the **Federal Register** on July 17, 1986 (51 FR 25976). Subsequent to that publication, a number of events occurred that were pertinent to the policies and procedures being proposed. The Senate introduced a legislative initiative to amend the Prompt Payment Act. The House of Representatives Committee on Government Operations issued a report entitled, "Prompt Payment Act Implementation: Improvements Needed." The General Accounting Office issued a report entitled, "Prompt Payment Act—Agencies Have Not Fully Achieved Available Benefits." Therefore, a revised proposed rule was published for public comment in the **Federal Register** on March 18, 1987 (52 FR 8576). In developing the final rule, the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council not only took the public comments into consideration but they also considered revisions that had been made to OMB Circular A-125 on June 9, 1987 (52 FR 21928). This final rule is issued to provide DOD coverage necessary to supplement the FAR final rule coverage published in the **Federal Register** on February 8, 1988.

B. Regulatory Flexibility Act

The final rule does not constitute a significant DFARS revision within the meaning of Pub. L. 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS Subparts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 88-610D in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore the DOD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 232 and 252 continues to read as follows:

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

PART 232—CONTRACT FINANCING

232.111 [Amended]

2. Section 232.111 is amended by removing paragraphs (a), (b), (c), and (d); and by removing the text of paragraph (S-70) and marking the paragraph "Reserved."

3. A new Subpart 232.9 is added to read as follows:

SUBPART 232.9—PROMPT PAYMENT

Sec.
232.905 Invoice payments.
232.906 Contract financing payments.

SUBPART 232.9—PROMPT PAYMENT

232.905 Invoice payments.

(a)(2)(ii) and (b)(3) It is expected that in the majority of cases, Government acceptance or approval can occur within the 5 working day constructive acceptance period specified in the Prompt Payment clause at FAR 52.232-25(a)(6) or Alternate I at FAR 52.232-25(b)(5). However, the contracting officer should coordinate this provision with the Government office that will be responsible for the acceptance of approval function. The contracting officer should specify a longer period where the 5 working day period is not reasonable or practical. Considerations include, but are not limited to, the nature of supplies or services being accepted, inspection and testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A period less than 5 working days is not authorized.

232.906 Contract financing payments.

(a) The Department of Defense policy is to make contract financing payments as expeditiously as possible. Generally, the standard due date to be specified by the contracting officer in the Prompt Payment clause at FAR 52.232-25(b)(2) and Alternate I at FAR 52.232-25(b)(2) is 7 days for progress payments and 14 days for interim payments on cost type contracts. The contracting officer, however, should coordinate payment terms with offices that will be involved in the payment process to ensure that terms specified can be reasonably met. Consideration should be given to geographical separation, workload, contractor ability to submit a proper request, and other factors that could affect timing of payment. Where justified, the contracting officer may specify a due date greater than, but not less than, the standard.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.232-7000 [Reserved]

4. Section 252.232-7000 is amended by removing the text and marking the section "Reserved."

[FR Doc. 88-2734 Filed 2-8-88; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 53, No. 26
Tuesday, February 9, 1988

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-CE-01-AD]

Airworthiness Directives; SIAI Marchetti Models F260, F260B, F260C, and F260D Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain SIAI Marchetti Models F260, F260B, F260C, and F260D airplanes. It would require inspection of the aileron balance weight attachment to assure it is secured to the aileron and if looseness is detected modification of the securing mechanism. The proposal was prompted by a report received by the manufacturer of a case of an alieron balance weight becoming detached from the aileron. Detachment of the aileron balance weight can cause the balance weight to jam the aileron control by mechanical interference. Jamming of the aileron control will result in the airplane being uncontrollable with the resultant hazard to the occupants. The actions of this proposed AD will preclude aileron balance weight separation.

DATES: Comments must be received on or before March 11, 1988.

ADDRESSES: SIAI Marchetti Service Bulletin (SB) No. 260-B52, dated July 31, 1987, applicable to this AD may be obtained from SIA Marchetti, S.p.A. V-12070 via Indipendenza, 2, 21018 Sesto Celende, Italy, telephone number 0331-924842/923598. This information may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation. Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-01-AD, Room 1558, 601 East 12th Street, Kansas City Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Munro Dearing, Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; telephone 011.32.2.513.38.30 or R.F. Yotter, Federal Aviation Administration, ACE-109 601 East 12th Street, Kansas City, Mo. 64106; telephone number (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-01-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

SIAI Marchetti received a report of an aileron balance weight becoming detached from the aileron on a F260 series airplanes. Separation of the aileron balance weight can result in jamming of the control system with inability to control the airplane. As a result, SIAI Marchetti issued SB No. 260-B52 July 31, 1987, which requires inspection of aileron weight attachment to the aileron for proper security. If the attachment is found to be loose or missing, the airplane must be modified per SB No. 260-B52 before further flight. The Registro Aeronautico Italiano (RAI), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Itlay, has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of SIAI Marchetti SB No. 260-B52 dated July 31, 1987, and the mandatory classification of this SB by the RAI. Based on the foregoing, the FAA has determined that the condition addressed by SB 260-B52 is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require inspection of the aileron balance weight attachment for security on certain of SIAI Marchetti F260 series airplanes.

The FAA has determined there are approximately 40 airplanes affected by the proposed AD. The cost of inspecting the aileron balance weight for proper security in accordance with the proposed AD is estimated to be $40.00 per airplane. The total cost of each inspection is estimated to be $1600.00 to the private sector. If the aileron balance weight is found loose an additional cost to modifing the securing method would include $370.00 per airplane or $14,800 to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under the provision

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

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

SIAI Marchetti Applies to Models F260, F260B, F260C, and F260D (Serial Number 1 thru 749) airplanes certificated in any category. Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, and each 100 hours TIS thereafter, unless already accomplished.

To preclude separation of the aileron balance weight from the aileron and possible jamming of the control system, accomplish the following:

(a) Visually inspect the attachment of the aileron balance weight for proper security to each aileron per the instructions contained in SIAI Marchetti Service Bulletin (SB) No. 260-B52, dated July 31, 1987.

(b) If loose or missing screws are found in the aileron balance weight attachment to the aileron, prior to further flight, modify the balance weight attachment per SIAI Marchetti SB No. 260-B52, dated July 31, 1987.

(c) The inspections required by this AD are no longer required if the airplane has been modified per SIAI Marchetti SB No. 260-B52, dated July 31, 1987.

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

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to SIAI Marchetti, S.p.A V-12070 via Indipendenza, 2, 21018 Sesto Celende Italy; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Sthreet, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 8, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-2619 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

[Docket Nos. RM79-27-001, et al. Order No. 459-A]

Basket Termination Order; Order Denying Rehearing

Issued: February 3, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Basket termination order; order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying rehearing of Order No. 459, which terminated 18 rulemaking dockets. In particular, the Commission is denying rehearing of the incentive prices rulemaking dockets because the actions proposed in these dockets fail to reflect the substantial changes that have occurred in the natural gas industry since these proposals were initiated. The Commission is denying rehearing of the terminated take-or-pay rulemaking dockets because these dockets no longer require action, in light of recent Commission initiatives that address the same or similar issues.

EFFECTIVE DATE: February 3, 1988.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

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

In the matter of petition for rulemaking in the matter of determinations whether wells drilled in more than 500-foot water depth should be determined to be "High Cost Gas" under section 107(c)(5) of the Natural Gas Policy Act of 1978, Docket No. RM79-27-001; petition of Montana-Dakota Utilities Company to reopen Order No. 99, Docket Nos. RM79-76-253, 254; new, Onshore Production Wells; proposed rulemaking amending final regulations implementing the Natural Gas Policy Act of 1978, Docket No. RM80-12-001; high-cost natural gas produced from wells drilled in deep water, Docket Nos. RM80-38-001, 002; petition for rulemaking to restrain prices for deregulated gas, Docket No. RM81-30-001; petition for rulemaking for implementation of the Commission's rulemaking authority to require filing of contracts under section 315(c) of the Natural Gas Policy Act, Docket No. RM81-35-001; petition for rulemaking to establish revised policies under the Natural Gas Act respecting the purchases and use of gas, Docket No. RM82-1-001; high-cost natural gas produced from intermediate deep drilling, Docket No. RM82-8-001; petition for rulemaking to investigate and establish rules mitigating market distortions under the Natural Gas Policy Act, Docket No. RM82-17-001; petition to institute a proceeding, pursuant to the Natural Gas Policy Act, sections 104(b) and 106(c), to increase the price of flowing interstate natural gas, Docket No. RM82-19-001; petition for rulemaking to require filing of contracts under section 315(c) of the Natural Gas Policy Act, Docket No. RM82-20-001; impact of the Natural Gas Policy Act on current and projected natural gas markets, Docket No. RM82-26-001; limitation on incentive prices for high-cost gas to commodity values, Docket Nos. RM82-32-001, 002; comments in opposition to proposed rulemaking in the matter of high-cost gas produced from tight formations, Docket No. RM79-76 (Ohio-2), Docket Nos. RM82-33-001, 002; petition for rulemaking in the matter of take-or-pay clauses in producer/pipeline contracts, Docket No. RM83-46-001; impact of special marketing programs and natural gas companies and consumers, Docket No. RM84-7-001; petition for rulemaking on the effect of price escalator clauses, Docket No. RM84-13-001; and petition for rulemaking in the matter of reformation of take-or-pay clauses, Docket No. RM84-17-001.

I. Introduction

On January 5, 1987, four applicants filed for rehearing of the Federal Energy Regulatory Commission's (Commission) Order No. 459, which terminated 18 rulemaking dockets. These applicants specifically seek rehearing of four incentive prices rulemaking dockets and two take-or-pay rulemaking dockets. The Commission is denying rehearing of the termination of the incentive prices rulemaking dockets because the actions proposed in these dockets, as well as the information and comments submitted in these dockets, fail to reflect the substantial changes that have occurred in the natural gas industry since these proposals were initiated. These changes make the terminated proposals unnecessary in light of the current competitive market for natural gas. The Commission is denying rehearing of the termination of the take-or-pay rulemaking dockets because the actions proposed are not required in light of recent Commission initiatives that address the same issues.

II. Background

In Order No. 459,[1] the Commission terminated 18 rulemaking dockets, stating that further action in these dockets was unwarranted. Noting the recently implemented comprehensive transportation program in Order No. 436 [2] and the revision of the maximum lawful prices for natural gas under the Natural Gas Policy Act of 1978 (NGPA) sections 104 and 106 in Order No. 451,[3] the Commission stated that these programs involved major changes to the natural gas industry. The Commission concluded that these programs resolved many of the issues in the terminated dockets. The Commission organized the discussion of the terminated dockets by issues. The Commission also provided that, although the dockets were terminated, further consideration of the issues raised in these terminated dockets was not foreclosed. The Commission then discussed each of the dockets as well as the comments, if any, which were submitted in these dockets.

III. Discussion

Four applicants filed timely requests for rehearing of some of these terminated dockets, specifically focusing on dockets involving incentive prices under the Natural Gas Policy Act of 1978 (NGPA) section 107(c)(5), and take-or-pay and similar contract provisions.[4]

Exxon Corporation (Exxon) requests rehearing of Docket No. RM80-38-000, a Notice of Proposed Rulemaking (NOPR) on incentive pricing for natural gas produced from deep water wells. Texas Gas Transmission Corporation (Texas Gas) seeks rehearing in Docket No. RM82-32-000, a NOPR proposing to limit incentive prices for high-cost gas to commodity values. Williams Natural Gas Company (Williams) requests rehearing of Order No. 459 to the extent it terminates dockets proposing to reduce the maximum lawful price for tight formation gas under NGPA section 107(c)(5) (including Docket Nos. RM82-32-000 and RM79-76-252). Williams also requests rehearing on those dockets eliminating or limiting take-or-pay and other similar contract provisions (including Docket Nos. RM82-1-000 and RM84-17-000). Finally, Texas Eastern Transmission Corporation (Texas Eastern) seeks rehearing in Dockets Nos. RM79-76-252, RM82-32-000, and RM82-33-000, a NOPR and two petitions for rulemaking which would limit incentive prices.[5]

A. Procedural Challenges

All four applicants argue that the Commission failed to adequately meet the procedural standards established by case law for terminating the four incentive prices rulemaking dockets and the two take-or-pay rulemaking dockets specifically challenged by the applicants in their petitions for rehearing. Additionally, Texas Eastern argues that the Commission is also violating section 555(b) of the Administrative Procedure Act (APA) [6] which imposes a duty on the Commission to decide issues within a reasonable time. Texas Eastern states the Commission is not only failing to address the incentive prices issues within a reasonable time, but also, that it is failing to resolve these specific rulemaking dockets within a reasonable time.[7]

As the Commission explained in Order 459, there have been a number of major changes in the natural gas market since these rulemaking dockets were initiated.[8] The Commission explained further in Order No. 459 that these changes have made the proposals out-of-date and concluded that these dockets should therefore be terminated.

B. Incentive Prices

All four applicants argue that the Commission has the statutory authority pursuant to NGPA section 107 to deal with the incentive prices issues proposed in these terminated rulemaking dockets. On the one hand, Exxon Corporation argues that Congress intended the Commission to exercise its discretionary authority under NGPA section 107(c)(5) to establish a new classification of high-cost, natural gas eligible to receive higher incentive prices—in this case natural gas produced from deep water wells. Exxon argues that since deep water production involves substantially higher risks and costs, the remedy to the problem of stale data is to require the update of the record, not to terminate the rulemaking proceeding.

On the other hand, Texas Eastern, Texas Gas and Williams argue that by terminating the incentive prices rulemaking dockets which would lower the incentive price ceiling, the Commission is violating its statutory mandate under the NGPA. Arguing that current incentive prices are unreasonably high, these applicants contend that NGPA section 107 requires the Commission to limit incentive prices by establishing a ceiling price for gas subject to NGPA section 107(c)(5) at the lesser of (1) the imputed commodity value based on the price of alternative

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[1] 51 FR 44634 (Dec. 11, 1986), IV FERC Stats. & Regs. ¶ 32,432 (Dec. 5, 1986).

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42408 (Oct. 18, 1985), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,665 (Oct. 9, 1985), *affirmed in part, vacated and remanded*, Associated Gas Distributors v. FERC, 824 F.2d 981 (D.C. Cir. 1987).

[3] Ceiling Prices; Old Gas Pricing Structure, 51 FR 22168 (June 18, 1986), IV FERC Stats. & Regs. ¶ 30,701 (June 6, 1986), *petitions for review filed sub. nom.*, Mobil Oil Exploration and Producing Co., *et al.* v. FERC, No. 86-4940, 5th Circuit.

[4] The Commission granted rehearing for purposes of further consideration on February 4, 1987, 38 FERC ¶ 61,107 (1987). The Commission notes that Williams Natural Gas Company (Williams) listed in its caption all of the 18 dockets terminated in Order No. 459, rather than just the ones it specifically wants the Commission to reconsider. The Commission is rehearing Williams' petition only to the extent the petition addresses specific rulemaking dockets.

[5] In its petition on rehearing of terminated Docket No. RM82-32-000, Texas Gas also proposes that any final rule promulgated limiting incentive prices for tight formation gas to commodity value levels should apply to all tight formation gas regardless of spud date. Since the Commission is denying rehearing in this terminated docket, it is not necessary to address this additional proposal.

[6] 5 U.S.C. 555(b) (1982).

[7] Section 555(b) of the APA provides that with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. *Id.*

[8] *See, e.g.*, Deregulation and Other Pricing Changes on January 1, 1985, under the Natural Gas Policy Act, 49 FR 46814 (Nov. 29, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,614 (Nov. 16, 1984); Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42408 (Oct. 18, 1985), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 39,665 (Oct. 9, 1985); Ceiling Prices; Old Gas Pricing Structure, 51 FR 22168 (June 18, 1986), IV FERC Stats. & Regs. ¶ 30,701 (June 6, 1986).

fuels, or (2) the incentive ceiling price which would otherwise apply to that gas, as proposed in Docket No. RM82-32-000. Texas Eastern argues further that Commission inaction in Docket No. RM82-32-000 results in irreparable and unlawful injury to pipelines and consumers of natural gas.

Applicants have not raised any new arguments that persuade the Commission that these proceedings should not be terminated. The recent changes in the natural gas industry, including the promulgation of a comprehensive transportation program in Order Nos. 436 and 500, revision of the maximum lawful prices for natural gas under sections 104 and 106 of the NGPA in Order No. 451, and the partial deregulation of natural gas prices in January 1985 and July 1987,[9] support the Commission's decision to take no action at this time.

First, in response to Exxon, the Commission emphasizes that establishing a new category of high-cost gas is discretionary. It requires a finding that an incentive price is necessary to provide reasonable incentives for the production of the natural gas, which the Commission determines to present extraordinary risks or costs. The Commission does not believe it is necessary to establish new high-cost gas categories at this time to encourage new production of high-cost gas. The statutory deregulation of categories of natural gas and the Commission's own policies have led to an increased reliance on competitive market forces to establish the prices and production of natural gas. The Commission, therefore, denies Exxon's petition for rehearing of terminated Docket No. RM80-38-000, a proposal to establish a new category of natural gas eligible to receive incentive prices, in this case natural gas produced from deep water wells.

Also, as the Commission noted in Order No. 459, the proposals in the terminated dockets which would put a cap on incentive prices are unnecessary and outdated. For example, in Order No. 451, the Commission provided for the renegotiation of high-priced contracts, including contracts for some incentive-priced gas. The Commission believes that competitive prices are increasigly being established in the marketplace. Therefore, it is not necessary to establish an artificial cap on incentive gas prices at this time.

The Commission notes that high-cost gas prices established pursuant to section 107(c)(5) of the NGPA represent a maximum lawful ceiling price. The Commission does not guarantee that producers can collect these prices. Nor does the Commission require customers to pay this ceiling price. The Commission expects the parties to negotiate an appropriate price for the purchase and sale of high-cost gas in the market. The Commission expects that parties to a contract would renegotiate a "problem contract" if the contract term is no longer market-responsive. The Commission, therefore, expects that the current market will serve to limit incentive prices to competitive levels. Such competitive market forces should be given a change to operate before any decision is made that regulatory measures are needed to limit incentive prices.[10] The Commission, therefore, denies rehearing of the terminated incentive prices rulemaking dockets.

C. Take-or-Pay

Only Williams seeks rehearing of two terminated dockets dealing with the take-or-pay issue. Williams argues that the Commission has failed to justify inaction in these rulemaking dockets. Pointing out that petitions for rulemaking were filed in Docket No. RM82-1-000 in 1981 and in Docket No RM84-17-000 in 1984, Williams challenges the Commission's rationale that take-or-pay will respond to the competitive pressures arising out of Commission initiatives in Order Nos. 436 and 451. Williams argues further that the Commission's inaction on the take-or-pay petitions exacerbates Williams' problems under Order No. 451, leaving the company having to continue to pay, under its separate new high-priced contracts, artificially above market-clearing levels for such gas.

As the Commission concluded in Order No. 459, its actions in other rulemaking dockets and cases together with the competitive pressures in today's current natural gas market are responding to the take-or-pay issue.[11] Also, pursuant to Order No. 500, the Commission received take-or-pay data from pipelines, and is currently analyzing the data submitted. In light of these actions, the Commission concludes no further action is warranted in these terminated take-or-pay rulemaking dockets.

By the Commission. Commissioners Sousa and Stalon concurred with a separate statement attached.

Lois D. Cashell,

Acting Secretary.

Commission Sousa and Stalon, *concurring:*

Although this order terminates four incentive prices rulemaking dockets and two take-or-pay rulemaking dockets, we emphasize that we support addressing certain of the issues raised in these dockets in the final implementing Order No. 500 or in a separate action under section 5 of the Natural Gas Act (NGA).

In particular, we support Commission action to review the maximum lawful price for tight formation gas under section 107(c)(5) of the Natural Gas Policy Act (NGPA), which was the subject of Docket Nos. RM82-32-000 and RM79-76-252. In Order No. 500, the Commission stated that it would analyze the data submitted to it in a data request issued on August 16, 1987 to determine whether action under section 5 of the NGA "or any other action (such as rescinding the incentive ceiling price for tight formation gas established under NGPA section 107(c)(5), would contribute to solving pipeline take-or-pay problems * * *." FERC *Statutes and Regulations* ¶ 30,761 at p. 30,784 (1987).

We, therefore, concur in this order and support an expeditious review of the data collected by the Commission on take-or-pay and prompt Commission action on take-or-pay in general and in particular on reviewing the maximum lawful price of tight formation gas.

Anthony G. Sousa,

Commissioner.

Charles G. Stalon,

Commissioner.

[FR Doc. 88-2709 Filed 2-8-88; 8:45 am]

BILLING CODE 6717-01-M

[9] 15 U.S.C. 3331 (1982).

[10] In this regard, the Commission notes that the Supreme Court has granted certiorari in FERC v. Martin Exploration Management Co., 813 F.2d 1059 (10th Cir. 1987) *cert. granted* 56 U.S.L.W. 3383 (U.S. Dec. 1, 1987) (No. 87-363). In *Martin Exploration*, the United States Court of Appeals for the Tenth Circuit reversed the Commission's ruling that if a natural gas sale qualifies for both a deregulated category and a regualted category, it is price deregulated. 18 CFR 270.208 (1987). In doing so, the Tenth Circuit declared in effect that gas eligible for incentive prices pursuant to NGPA section 107 could, by remaining price regulated, continue to command these incentive prices. If the Supreme Court overturns the Tenth Circuit's decision, a large portion of high-cost gas under section 107(c)(5) would be deregulated and would no longer be subject to the NGPA section 107 maximum lawful price ceiling.

[11] *See, e.g.*, Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol, Order No. 500, 52 FR 30334 (Aug. 14, 1987), III FERC Stats. & Regs. ¶ 30,761 (Aug. 7, 1987); Order No. 500-A, 52 FR 39507 (Oct. 22, 1987), III FERC Stats. & Regs. ¶ 30,770 (Oct. 14, 1987); Order No. 500-B, 52 FR 39630 (Oct. 23, 1987), III FERC Stats. & Regs. ¶ 30,772 (Oct. 16, 1987); Order No. 500-C, 52 FR 48986 (Dec. 29, 1987), 41 FERC ¶ 61,351 (Dec. 23, 1987); and Abandonment of Sales and Purchases of Natural Gas Under Expired, Terminated, or Modified Contracts, Notice of Proposed Rulemaking, RM87-16-000, 52 FR 18703 (May 19, 1987), 52 FR 20192 (May 29, 1987), IV FERC Stats. & Regs. ¶ 32,441 (May 7, 1987).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The DEA proposes to amend its regulations concerning registration of researchers handling controlled substances in Schedule II to both modify and decrease the information which such researchers must supply on an application for registration. This change will greatly lessen the burden of applicants for research registration who do not intend to manufacture or import controlled substances.

DATE: Written comments and objections must be received on or before March 10, 1988.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred A. Russell, Chief, Regulatory Support Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone (202) 633-1570.

SUPPLEMENTARY INFORMATION: Title 21 of the Code of Federal Regulations, § 1301.32(d) requires that an applicant for registration to conduct research with any narcotic controlled substance in Schedule II include the Administration Controlled Substances Code Number for each such substance to be covered by that registration. Agency policy has extended this requirement to include all controlled substances listed in Schedule II.

It has been determined that the data collection needs of the agency could be adequately satisfied if this requirement were limited to those controlled substances which the applicant desires to manufacture or import as a coincident activity of the researcher registration and if more detailed data were required concerning these two specific activities. This change will greatly lessen the burden of applicants for research registration who do not intend to manufacture or import controlled substances and it should be noted that these applicants make up the great majority of those who are involved in research activities. Those researchers who intend to manufacture or import a Schedule II controlled substance as a coincident activity to their researcher registration will continue to be required to list the Administration Controlled Substance Code Number for those substances on their application. They will also be required to attach a statement to the application indicating the quantity of each substance they intend to manufacture or import.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that this proposed rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.* This rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this proposed rule has been submitted for review to the Office of Management and the Budget.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

For the reasons set out above, it is proposed that 21 CFR Part 1301 be amended as follows:

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.32 is amended by revising paragraph (d), redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively, and adding a new paragraph (e), as follows:

§ 1301.32 Application forms; contents; signature.

* * * * *

(d) Each application for registration to handle any basic class of controlled substance listed in Schedule I (except to conduct chemical analysis with such classes), and each application for registration to manufacture a basic class of controlled substance listed in Schedule II, shall include the Administration Controlled Substances Code Number, as set forth in Part 1308 of this chapter, for each basic class to be covered by such registration.

(e) Each application for registration to conduct research with any basic class of controlled substance listed in Schedule II shall include the Administration Controlled Substances Code Number, as set forth in Part 1308 of this chapter, for each such basic class to be manufactured or imported as a coincident activity of that registration. A statement listing the quantity of each such basic class or controlled substance to be imported or manufactured during the registration period for which application is being made shall be included with each such application. For purposes of this paragraph only, manufacturing is defined as the production of a controlled substance or a basic class of controlled substance by synthesis, extraction or by agricultural/horticultural means.

* * * * *

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: January 22, 1988.

[FR Doc. 88-2636 Filed 2-8-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 86-13, Notice No. 2]

Reference Material; Roadside Design Guide

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for comments.

SUMMARY: The American Association of State Highway and Transportation Officials (AASHTO), with technical assistance from the Federal Highway Administration (FHWA), has compiled a "Roadside Design Guide," a document that addresses issues relating to the safer design of roadside features. This document is being circulated to the AASHTO Subcommittee on Design for review and comment prior to its formal approval by AASHTO. When approved, FHWA contemplates citing the Guide in 23 CFR 625.5 which lists information publications acceptable for use in developing Federal-aid highway projects. The FHWA is inviting comments on this action and on the Guide itself which has been placed in this docket.

DATE: Comments on action and materials cited in this Notice must be received on or before March 15, 1988. Comments received after that date will be considered to the extent practicable.

ADDRESS: Submit written, signed comments, preferably in triplicate, to FHWA Docket No. 86-13, Notice No. 2, Federal Highway Administration, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be

available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Chief, Geometric and Roadside Design Branch, Office of Engineering, (202) 366-1327, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On January 12, 1987 at 52 FR 1200, a notice with request for comments was published under Docket No. 86-13. This initial notice received two comments. The first of these advocated compehensive highway agency involvement in the development of the Roadside Design Guide. Since the Roadside Design Guide is being prepared by the AASHTO Task Force on Roadside Safety which presently consists of representatives from 15 State highway agencies and is being reviewed by the full AASHTO Subcommittee on Design, we believe that this concern is adequately addressed. The second comment suggested comprehensive coverage of the safety advantages of pavement markings and delineation. While the desirability of keeping motorists on the roadway is obvious and the need for adequate pavement marking is unquestioned, the Roadside Design Guide primarily addresses off-roadway design elements and features. Thus, pavement markings are not discussed in detail in the Guide.

Most roadside design guidance is presently contained in 23 CFR 625.5(a)(3) under the reference, "Guide for Selecting, Locating, and Designing Traffic Barriers," AASHTO 1977 (Barrier Guide). The AASHTO is developing a more comprehensive document called the "Roadside Design Guide," with the assistance of the FHWA. The "Roadside Design Guide" will cover virtually all aspects of roadside safety design including topographic and drainage features, sign and luminaire supports and similar roadside objects, roadside and median traffic barriers, bridge railings, crash cushions and work zone safety hardware. The "Roadside Design Guide" has undergone three revisions by the AASHTO task force for Roadside Safety and has been forwarded to the AASHTO Subcommittee on Design for final review. To encourage and promote full public participate in this process, the FHWA is giving notice that the final draft is available for review and that a copy has been placed in the docket. Single copies of the final draft can be obtained from Mr. Seppo I. Sillan at the address provided under the heading.

FOR FURTHER INFORMATION CONTACT: All comments received will be fully considered in the continuing assistance the FHWA provides the AASHTO.

Issued on February 4, 1988.

R.D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 88-2723 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area in the Waters Contiguous to the Naval Air Station, Pensacola, FL

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to establish a restricted area in the waters contiguous to the Naval Air Station at Pensacola, Escambia County, Florida. The purpose of the restricted area is to provide additional safety and security for personnel and facilities at the naval air station.

DATES: Comments must be received on or before March 10, 1988.

ADDRESSES: HQUSACE, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Lonnie Shepardson at (904) 791-1677 or Mr. Sam Collinson at (202) 272-1782.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his/her address, identify this notice and give the reason(s) for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and provisions of Executive Order do not apply. The Corps of Engineers certifies that if adopted, this proposal will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the foregoing, the Corps of Engineers proposes to amend Part 334 of Title 33 to read as follows:

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 226; (33 U.S.C.1) and 40 Stat. 892; (33 U.S.C.3).

2. Section 334.778 is proposed to be added as follows:

§ 334.778 Pensacola Bay and waters contiguous to the Naval Air Station, Pensacola, FL; restricted area.

(a) *The area:* Beginning at a point on the northerly shoreline of Grande (Big) Lagoon at Point 1, Latitude 30°19'42" W, Longitude 87°21'06" W., proceed southeasterly to Point 2, Latitude 30°19'27" N., Longitude 87°21'03" W.; thence, northeasterly, paralleling the shoreline at a minimum distance of 500 feet offshore, to Point 3, Latitude 30°19'48" N., Longitude 87°19'35" W.; thence, maintaining a minimum distance of 500 feet offshore or along the northerly edge of the Gulf Intracoastal Waterway Channel (whichever is less), continue to Point 4, Latitude 30°20'00" N., Longitude 87°19'03" W.; thence, maintaining a minimum distance of 500 feet offshore for the remainder of the area, to:

PT 5, Latitude 30°20'31" N., Longitude 87°16'01" W.; Thence To PT 6, Latitude 30°21'11" N., Longitude 87°15'29" W.; Thence To PT 7, Latitude 30°22'26" N., Longitude 87°15'43" W.; Thence To PT 8, Latitude 30°22'39" N., Longitude 87°16'08" W.; Thence To PT 9, Latitude 30°22'17" N., Longitude 87°16'09" W.; Thence To PT 10, Latitude 30°22'18" N., Longitude 87°16'35" W.; Thence To PT 11, Latitude 30°22'09" N., Longitude 87°17'10" W.; Thence To PT 12, Latitude 30°22'15" N., Longitude 87°17'19" W.; Thence To PT 13, Latitude 30°22'07" N., Longitude 87°17'48" W.; Thence To PT 14, Latitude 30°22'25" N., Longitude 87°17'53" W.; Thence To PT 15, Latitude 30°22'13" N., Longitude 87°18'54" W.; Thence To PT 16, Latitude 30°21'57" N., Longitude 87°19'22" W.; Thence To PT 17, Latitude 30°21'57" N., Longitude 87°19'37" W.; Thence To PT 18, Latitude 30°21'49" N., Longitude 87°19'49" W.; (a point on the southerly shoreline of Bayou Grande).

(b) *The regulations:* (1) All pleasure (sailing, motorized, and/or rowed), private and commercial fishing, and all other non-military (United States) owned vessels, barges, and other craft are restricted from transiting, anchoring, or drifting within the above-described area when required by the Commanding Officer of the Naval Air Station Pensacola (N.A.S.) to safeguard the installation, its personnel and property in times of an imminent security threat, as required by a national emergency situation, natural disaster, or as directed by higher authority.

(2) All pleasure (sailing, motorized, and/or rowed), private and commercial fishing, and all other vessels, barges, and other craft excepting those owned by the United States Government's defense or law enforcement agencies are prohibited from transiting, anchoring, or drifting within 500 feet of any quay, pier, wharf, or levee along the N.A.S. shoreline abutting Pensacola Bay nor may such vessels or person thereon approach within 500 feet or land on or beach such craft on the beaches extending along the eastern shore of the N.A.S., southerly to a point on the shore located at Latitude 30°20'57" N., Longitude 87°15'52" W., nor may any above-described craft/vessel approach within 500 feet of any United States public vessel anchored or moored adjacent thereto without specific permission of the Commanding Officer, N.A.S. Pensacola or his/her designee or the Commanding Officer of the anchored/moored public vessel(s).

(3) The existing "Navy Channel" adjacent to the north shore of Magazine Point, by which vessels enter and egress Bayous Davenport and Grande into Pensacola Bay shall remain open to all craft except in those extraordinary circumstances where the Commanding Officer, N.A.S. or his/her designee determines that risk to the installation, its personnel, or property is so great and so imminent that closing the channel to all but designated military craft is required for security reasons, or as directed by higher authority. This section will not preclude the closure of the channel as part of a security exercise; however, such closures of said channel will be limited in duration and scope to the maximum extent so as not to interfere with the ability of private vessels to use the channel for navigation in public waters adjacent thereto not otherwise limited by this regulation.

(4) The regulation of this section shall be enforced by the Commanding Officer of the Naval Air Station, Pensacola, Florida, and such agencies he/she may designate.

Dated: January 29, 1988.

C. Hilton Dunn,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 88-2627 Filed 2-8-88; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Whiskeytown Unit; Whiskeytown-Shasta-Trinity National Recreation Area; Gold Panning Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking adds a special regulation pertaining to gold panning within the Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area. Existing National Park Service general regulations governing resource protection, public use and recreation activities have the effect of prohibiting gold panning within the Whiskeytown Unit. This proposed rulemaking would allow gold panning by visitors. The proposed change would allow visitors to keep any small amounts of mineral recovered for personal use, but would prohibit its sale or commercial use.

DATES: Written comments will be accepted through March 10, 1988.

ADDRESSES: Comments should be addressed to: Superintendent, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area, P.O. Box 188 Whiskeytown, California 96095.

FOR FURTHER INFORMATION CONTACT: Dwayne Collier, Chief, Visitor Services & Law Enforcement Operations, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area, P.O. Box 188 Whiskeytown, California 96095, Telephone (916) 241-6584.

SUPPLEMENTARY INFORMATION:

Background

The Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area is the only existing unit within the National Park System that contains a property, on the National Register of Historic Places, that commemorates the California Gold Rush. Further, a significant part of the interpreted history of the unit is related to the Gold Rush and its influences on the area during the mid 1800's. The park now allows gold panning as part of an interpretive program. However, to allow panning outside of a structured interpretive program and to allow visitors to retain minimal amounts of gold as an enhancement of this experience, the National Park Service proposes this rulemaking pursuant to the Unit's enabling legislation at section 6.

The existing National Park Service (NPS) general regulations at 36 CFR 2.1(a)(1)(iv) that pertain to the preservation of natural resources restricts the possessing, removing and/or digging for any mineral resources restricts the possessing, removing and/or digging for any mineral resource. These provision apply at the Whiskeytown Unit of the National Recreation Area. However, the enabling act for the Whiskeytown-Shasta-Trinity National Recreation Area. Pub. L. 89-336, section 6, provides the Secretary of the Interior with the authority to permit the removal of nonleaseable minerals from lands within the recreation area in accordance with the Reclamation Act of 1939 (43 U.S.C. 387).

The proposed regulation provides the conditions under which the recreational gold panning will be allowed. The regulation stipulates registration requirements, locations where the activity will be allowed, and controls on the equipment, materials and methods by which gold panning may occur and on the use of the gold obtained. The regulation also establishes a special recreation fee that applies to persons engaged in gold panning activities.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The primary authors of this regulation are Ray C. Foust, Superintendent, and T. Dwayne Collier, Management Assistant, both of Whiskeytown Unit, Whiskeytown-Shasta-Trinity NRA.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291

(February 19, 1981), 46 FR 13193, and certifies that this document 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.*). While this rulemaking has no economic effect, it does impose some new restrictions regarding the manner in which the removal of nonleasable minerals may be occur at Whiskeytown in accordance with the Reclamation Act of 1939 (43 U.S.C. 387). Additionally, it relaxes one existing NPS regulation, 36 CFR 2.1. (a) (1) (iv), that restricts the possession, removing and/or digging for any mineral resource.

The NPS has prepared an Environmental Assessment in conjunction with this proposed rulemaking. It is available for review concurrently with this rulemaking and copies may be obtained from the Superintendent of Whiskeytown.

In accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*, an Assessment of Actions Having An Effect On Cultural Resources was conducted in accordance with the Historic Preservation Act, 16 U.S.C. 470, *et seq.*, it was determined that the proposed activity will not have an adverse effect on cultural resources.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I, Part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k); § 7.96 also issued under DC Code 8–137 (1981) and DC Code 40–721 (1981).

2. In § 7.91, by adding a new paragraph (d) to read as follows:

§ 7.91 Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area.

* * * * *

(d) *Gold panning.* (1) As used in this section, the term "gold panning" means the attempted or actual removal of gold from a stream by using either a metal or plastic gold pan and a trowel, spoon or other digging implement having a blade surface not exceeding 4 inches wide and 8 inches long.

(2)(i) Unless otherwise designated by the superintendent, gold panning is allowed on all streams. Streams, or portions thereof, that are designated closed to gold panning are marked on a map available for public inspection in the office of the superintendent, or by the posting of signs, or both.

(ii) Prior to engaging in gold panning, a person shall register with, and pay a special recreation permit fee to, the superintendent. The superintendent shall establish the special recreation permit fee in accordance with regulation in part 71 of this chapter.

(iii) A person may possess gold obtained by that person through authorized gold panning and may remove from the Unit, for personal use only, any amount of gold so obtained.

(3) The following are prohibited:

(i) Engaging in any method of gold panning including, but not limited to, the use of suction, a crevice cleaner, screen separator, view box, sluice box, rocker, dredge or any other mechanical or hydraulic device, or skin diving equipment such as a snorkel, mask or wetsuit.

(ii) Using any toxic substance or chemical, including mercury, in gold panning activities.

(iii) Conducting gold panning outside the confines of existing stream water levels, or digging into a stream bank, or digging that results in the disturbance of the ground surface or the undermining of any vegetation, historic feature or bridge abutment.

(iv) Sale or commercial use of any mineral recovered by any person involved in gold panning.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: December 14, 1987

[FR Doc. 88–2681 Filed 2–8–88; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–3325–7; EPA Docket No. 107PA–33]

Desigantion of Areas for Air Quality Planning Purposes, Pennsylvania; Section 107 Ozone Redesignations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve a request submitted by the Commonwealth of Pennsylvania to redesignate the Scranton/Wilkes-Barre area to attainment for ozone under section 107 of the Clean Air Act. This area includes Lackawanna, Luzerne, Wyoming, Susquehanna, and Wayne counties. EPA is proposing to disapprove the Commonwealth's request to redesignate a sixth area, Pike County, to attainment for ozone. The intent of this notice is to discuss the results of EPA's review and to solicit public comments on the redesignation request and EPA's proposed action.

DATE: Comments must be received on or before March 10, 1988. Public comments on this document are requested and will be considered before taking final action on the redesignation.

ADDRESSES: Copies of the redesignation request and accompanying support material are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Division (3AM11), 841 Chestnut Building, Philadelphia, PA 19107 Attn: Esther Steinberg

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Mr. Gary Triplet.

All written comments should be sent to Mr. Joseph W. Kunz, Chief, PA/WV Section at the EPA, Region III, address given above.

FOR FURTHER INFORMATION CONTACT: Rebecca L. Taggart at the U.S. Environmental Protection Agency, Region III address given above, or at (215) 597–9189.

SUPPLEMENTARY INFORMATION: In response to the Clean Air Act (CAA) Amendments of 1977, the Pennsylvania Department of Environmental Resources (PADER) submitted an ozone State Implementation Plan (SIP) revision for the entire State in 1979. In the revision, PADER requested an extension of the attainment date for the Scranton/Wilkes-Barre area to December 31, 1987. EPA approved the extension on May 20, 1980 (45 FR 33607). PADER was then required to submit a SIP revision for the area by July 1, 1982, showing attainment of the ozone standard on or before December 31, 1987.

On September 19, 1980, PADER submitted a new ozone SIP revision to EPA for the Scranton/Wilkes-Barre area. This revision demonstrated attainment of the ozone standard for the area by 1982. EPA approved the revision on August 27, 1981 (46 FR 43140).

Violations of the ozone National Ambient Air Quality Standard continued to be monitored for the Scranton/Wilkes-Barre areas in 1982 and 1983. On February 22, 1984, the EPA notified the State, pursuant to section 110(a)(2)(H) of the Clean Air Act, that the ozone SIP for the Scranton/Wilkes-Barre area was

deficient and should be revised to demonstrate attainment of the ozone standard. This SIP call pertained to Lackawanna and Luzerne counties. In response to the notification, PADER submitted a SIP revision of EPA review of April 29, 1985.

On September 11, 1985, EPA notified PADER that a two-part contingency plan should be submitted to EPA before the SIP revision could be given final approval. A notice of proposed approval was published on November 15, 1985 (50 FR 47235), with the contingency plan mentioned as a condition for final approval.

On September 25, 1985, PADER responded that the contingency plan was unnecessary, as the area was now in attainment. EPA then agreed to withdraw the SIP call in connection with the redesignation action if EPA ultimately decided to redesignate the area to attainment. Following finalization of the redesignation, the State would be be free to withdraw its April 29, 1985 SIP revision.

PADER submitted a form request for the redesignation of Lackawanna and Luzerne counties to the EPA on January 13, 1987. The request also asked for the redesignation of the adjacent, unmonitored Susquehanna, Wayne, Wyoming and Pike counties.

Under section 107 of the Clean Air Act, states may request redesignation for areas designated nonattainment for ozone when certain criteria have been met. The most important of these is compliance with the National Ambient Air Quality Standard (NAAQS) for ozone, which is defined for both the primary and secondary standard in 40 CFR Part 50 as 0.12 parts per million (ppm) over a one-hour avaraging period. An area is in violation of the NAAQS for ozone if a monitor's data contained more than three expected exceedances of the standard over a three-year period.

In addition to meeting the NAAQS, the State must be implementing the control measures in the SIP for the area in question in order for EPA to approve a redesignation to attainment. Furthermore, the improvement in air quality must be permanent; for example, it cannot be merely due to an economic downturn as this could result in only a temporary reduction in ozone. Also, any industrial shutdowns credited toward attainment must be permanent. These criteria are discussed in an April 21, 1983 policy memorandum from Sheldon Meyers, Director, EPA's Office of Air Quality Planning and Standards; December 23, 1983 and June 2, 1986 Policy memoranda from G. T. Helms, Chief, EPA's Operations Branch; and an April 6, 1987 policy memorandum from Gerald A. Emison, Director, EPA's Office of Air Quality Planning and Standards.

Included with PADER's redesignation request were data from 1984–1986 showing no exceedances at any monitoring sites during that period. These data have been verified by EPA and satisfy the redesignation criteria. Additionally, EPA has determined that Lackawanna and Luzerne Counties have not experienced any major shutdowns or an economic downturn. Further, PADER has implemented all the FOC control measures in the Scranton/Wilkes-Barre portion of the Pennsylvania SIP.These measures provide for permanent, enforceable reductions in ozone emissions.

Based on this information, EPA finds the redesignation request for Lackawanna and Luzerne Counties approvable at this time. Consequently, EPA proposes to withdraw the February 22, 1984 SIP call for Lackawanna and Luzerne Counties. Final action withdrawing the SIP call will appear in the final rulemaking notice.

In order to evaluate a redesignation request for an unmonitored area, EPA considers its proximity to major precursor source areas, and the prevailing wind directions. Rural, unmonitored areas can be redesignated to attainment if they are adjacent to monitored attainment areas and if they are not downwind from a nonattainment area with significant ozone-precursor sources. Data from areawide ozone-precursor studies in the vicinities of major urban areas, such as St. Louis and Philadelphia, as well as data from rural monitoring sites in Region III, indicate that ozone transport can occur over considerable distances downwind from major source areas. Based on these studies and data, unmonitored rural areas are considered to be nonttainment if they are located nearby and downwind from a designated nonattainment source area.

Wyoming, Susquehanna and Wayne Counties do not lie directly downwind of the monitored nonattainment areas in their Air Quality Control Region (AQCR). All three counties border on the Scranton/Wilkes-Barre area, which is now monitoring attainment for ozone, and the Pennsylvania SIP is fully implemented in each county. These three counties therefore qualify for redesignation.

The fourth unmonitored area mentioned in the redesignation request, Pike County, both is downwind from Lehigh and Northampton Counties, monitored nonattainment areas in the AQCR, and does not border any monitored attainment area. Pike County therefore does not fullfill the redesignation criteria for rural unmonitored areas.

Proposed Action

The EPA proposes to approve the Commonwealth of Pennsylvania's request to redesignate Lackawanna, Luzerne, Wyoming, Wayne and Susquehanna Counties to attainment for ozone. In addition, the EPA proposed to disapprove the redesignation of Pike County at this time. EPA is also giving notice that it intends to withdraw the SIP call if the redesignation is fully approved. Interested parties are encouraged to submit comments on this proposed action. EPA will consider comments received within 30 days of publication of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities.

The disapproval portion of this action will not have a significant impact on a substantial number of small entities. The disapproval will simply maintain the current nonattainment status of Pike County, and will not result in any additional burdens on small entities.

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Date: November 2, 1987.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 88–2688 Filed 2–8–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–314]

Radio and Television Broadcasting; Prevention of Abuses of Certain Commission Processes

AGENCY: Federal Communications Commission.

ACTION: Order extending time to file comments in rule making proceeding.

SUMMARY: This action extends the time for the National Black Media Coalition (NBMC) to file comments in response to the *Notice of Proposed Rule Making* in

MM Docket No. 87-314 (52 FR 35737, September 23, 1987), and establishes the date for filing reply comments to NBMC's comments. The *Notice* in this proceeding requested comments on rules proposed by the Commission to deter abuses of certain Commission processes. NBMC's comments are due February 4, 1988, and reply comments to NBMC's comments are due February 18, 1988.

DATES: Comments are due on or before February 4, 1988, and reply comments are due on or before February 18, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mark L. Solberg, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order Granting Request for Extension of Time To File Comments* in MM Docket No. 87-314, DA 88-72, adopted January 26, 1988, released January 27, 1988. The full text of the Commission's *Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St. NW., Washington, DC 20554. The complete text of this *Order* also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M St. NW., Room 246, Washington, DC 20554.

Federal Communications Commission.

Alex D. Felker,

Chief, Mass Media Bureau.

[FR Doc. 88-2658 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-618, RM-6133]

Radio Broadcasting Services; Fort Rucker, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on a petition by the United States Army Aviation Center, seeking the deletion of Channel 226A from Fort Rucker, Alabama, based on an alleged hazard to air traffic training activities at the military reservation. Additionally, aeronautical constraints and limitations may preclude a Class A station from providing a 70 dBu signal from any other location.

DATES: Comments must be filed on or before March 21, 1988, and reply comments on or before April 5, 1988.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Department of the Army, United States Army Aviation Center, Attn: Colonel James B. Sauer, Fort Rucker, Alabama 36362-5000.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-618 adopted December 24, 1987 and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 88-2659 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-619, RM-5907; RM-6132]

Radio Broadcasting Services; Gosnell, AR and Osecola, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separately-filed, mutually-exclusive proposals, seeking the allotment of FM Channel 235A. The first, filed by Earl N Hodges, d/b/a Mid-South Frequency Monitoring Service, seeks the allotment as a first local service to Gosnell, Arkansas. The second proponent, Clarence Medlin, seeks the allotment to Osceola, Arkansas, as that community's second local FM service.

DATES: Comments must be filed on or before March 18, 1988, and reply comments on or before April 4, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Earl N. Hodges, d/b/a Mid-South Frequency Monitoring Service, 4004 Clay Dr., Jonesboro, AR 72401 and Clarance Medlin, 42 Jackson St., Wilson, AR 72395.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-619 adopted December 24, 1987, and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 88-2660 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-616, RM-6075]

Radio Broadcasting Services; Emporia, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Emporia Broadcasting proposing the allotment of FM Channel 241A to Emporia, Kansas as that community's third FM channel.

DATES: Comments must be filed on or before March 21, 1988, and reply comments on or before April 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Stanley G. Emert, Jr., Esq., Watson, Erickson & Emert, 2108 Plaza Tower, Post Office Box 131, Knoxville, TN 37901.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-616, adopted December 22, 1987, and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-2661 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-617, RM-6087]

Radio Broadcasting Services; Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Darrell E. Yates, licensee of Station KUEZ(FM), Channel 257A at Lufkin, Texas, proposing the substitution of Channel 257C2 for Channel 257A and modification of his license to specify operation on the higher class co-channel. A site restriction of 12.9 kilometers (8.0 miles) northwest of the city is required.

DATES: Comments must be filed on or before March 21, 1988, and reply comments on or before April 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Lee J. Peltzman, Esquire, Baraff, Koerner, Olender & Hochberg, P. C., 2033 M Street NW., Suite 203, Washington, DC 20036-3355 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-617, adopted December 21, 1987, and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-2662 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-620, RM-6098]

Radio Broadcasting Services; Deer Park, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Barbara L. Kazmark, licensee of Station KAZZ(FM), Channel 296A, Deer Park, Washington, proposing the substitution of Channel 296C2 for Channel 296A and the modification of the station's license to specify operation on the higher class co-channel, as that community's first wide coverage area FM station. Canadian concurrence must be obtained.

DATES: Comments must be filed on or before March 21, 1988, and reply comments on or before April 5, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filling comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Barbara L. Kazmark, P.O. Box 1369, Deer Park, Washington 99006 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-620, adopted December 24, 1987, and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800,

2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 88-2663 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 223, 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Safety Provisions

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering changes to the clause at DFARS 252.223-7000 and related coverage at 242.302. The Council is also considering adding new DFARS 223.72, and 242.302(b) (S-70) which provide regulatory coverage on contractually required system safety programs called for in Department of Defense Instruction 5000.1. These changes: (i) Update references in the clause; (ii) allow contractors to certify that radioactive notices have been previously submitted; and (iii) delete 223.303.

DATE: Comments on the proposed changes should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below on or before April 11, 1988, to be considered in the formulation of the final rule. Please cite DAR Case 86-2 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Charles W. Lloyd, Executive Secretary, DAR Council, ODASD (P)/DARS, c/o OASD (P&L) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

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

SUPPLEMENTARY INFORMATION:

A. Background

Title 29 Code of Federal Regulations, Part 1910.1200, "Hazard Communication," requires that employees in the manufacturing sector be advised of the hazards of chemicals with which they work. In order to achieve this purpose, the Hazard Communication standard requires that employers obtain Material Safety Data Sheets (MSDS) for all hazardous chemicals they use (the Federal agencies are already required to do this). Chemical manufacturers and distributors in the private sector are required to provide MSDS with the hazardous chemicals they ship to other distributors and purchasers. In a July 25, 1985 decision, the Department of Labor's Deputy Associate Solicitor for Occupational Safety and Health determined that "application of the standard to Federal agency heads may not, however, be construed as requiring private employers to take any action with respect to Federal agencies, including supplying material safety sheets to the agencies." Therefore, while chemical manufacturers and distributors must develop or otherwise obtain MSDSs for their hazardous material products to satisfy the requirements of the standard in the private sector, they are not required to provide them to Federal agencies. Our only recourse in obtaining MSDS is to obtain them contractually, a process which the proposed change is intended to improve.

B. Regulatory Flexibility Act Information

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the proposed changes will apply to only those small entities who want to contract with the Government to supply hazardous materials (as defined in the latest version of Federal Standard 313). It is likely that most small entities affected by the proposed changes will be distributors rather than manufacturers. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 88-610D in correspondence.

C. Paperwork Reduction Act Information

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.* The reporting requirement in 252.223-7000 has been approved by OMB under OMB number 0704-0193 and expires on October 31, 1989.

List of Subjects in 48 CFR Parts 223, 242 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Parts 223, 242 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223, 242 and 252 continues to read as follows:

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

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

2. A new Subpart 223.72, consisting of sections 223.7200 and 223.7201, is added to read as follows:

Subpart 223.72—Notice of Radioactive Material

Sec.
223.7200 Contract clause.
223.7201 Requirements.

Subpart 223.72—Notice of Radioactive Material

223.7200 Contract clause.

The Contracting Officer shall insert the clause at 252.223-7000, Notice of Radioactive Materials, in all contracts for items, components thereof, and materials which are radioactive in which the specific activity is greater than 0.002 microcuries per gram. Such contracts include, but are not limited to, contracts for aircraft, ammunition, missiles, vehicles, electronic tubes, instrument panel gauges, compasses and identification markers.

223.7201 Requirements.

(a) The clause at 252.223-7000 requires the contractor to notify the contracting officer prior to delivery of radioactive material.

(b) Upon receipt of the notice, the contracting officer shall notify receiving

activities so that appropriate safeguards can be taken.

(c) The clause permits the contracting officer to waive the notification if the contractor certifies that a notification on prior deliveries is still accurate. The contracting officer may waive the notice only after consultation with cognizant technical representatives.

3. A new Subpart 223.73, consisting of §§ 223.7301 and 223.7302, is added to read as follows:

Subpart 223.73—System Safety Program

Sec.
223.7301 Scope of subpart.
223.7302 Policy.

Subpart 223.73—System Safety Program

223.7301 Scope of Subpart.

This subpart prescribes the policies and procedures for implementing the System Safety Program as required by DoD Instruction 5000.36, "System Safety Engineering and Management."

223.7302 Policy.

Identification and control of safety and health hazards to systems, facilities, personnel, or property during the acquisition process are more cost-effective than sustaining the consequences of such hazards, or instituting corrective measures after the fact. The primary objective of the Department of Defense system safety program required by DoDI 5000.36, therefore, is to provide for safety and health hazard analysis; to correct or control those hazards commensurate with mission requirements; and to facilitate the acquisition of associated personnel protective equipment and safety health training. The system safety effort considers safety and health hazards throughout the entire life cycle of the system, to include operations, maintenance, repair, transportation and disposal.

PART 242—CONTRACT ADMINISTRATION

4. Section 242.302 is amended by adding paragraph (b) (S-70) to read as follows:

242.302 Contract administration functions.

* * * * *

(b) (S-70) Perform surveillance of, and evaluate for adequacy, the contractor's management of its contractually required system safety program (see Subpart 223.73).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.223-7000 is revised to read as follows:

252.223-7000 Notice of radioactive materials.

As prescribed at 223.7200, insert the following clause in solicitations and contracts.

Notice of Radioactive Materials (Jan 1988)

(a) The Contractor shall notify the Contracting Officer or designee, in writing (_____*_____) days prior to the delivery of, or prior to completion of, any servicing required by this contract of items containing either (i) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 CFR, in effect on the date of this contract, or (ii) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram. Such notice shall specify the part or parts of the items which contain such radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 0704-0193).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall (i) be submitted in writing, (ii) contain a certification that the quantity of activity, characteristics, and composition of the radioactive material has not changed, and (iii) cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD-1458 in effect on the date of the contract.

(d) This clause, including paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a).

(End of clause)

* The Contracting Officer shall insert the number of days required in advance of delivery of the item of completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions.

[FR Doc. 88-2733 Filed 2-8-88; 8:45 am]
BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 53, No. 26
Tuesday, February 9, 1988

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Indemnification of Government Contractors

AGENCY: Administative Conference of the United States.

ACTION: Notice of inquiry.

SUMMARY: The Administrative Conference's Committee on Governmental Processes is studying federal government indemnification of governmental contractors. Comments are sought on the adequacy of existing agency authority and procedures for indemnifying contractors. Comments are also invited on a draft report available from the Conference.

DATE: Comments are due by March 1, 1988.

ADDRESS: Send comments to David M. Pritzker, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, 202-254-7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Governmental Processes has under consideration a draft report on federal government indemnification of governmental contractors. The draft report was written by Professor Frank P. Grad, Chamberlain Professor of Legislation at the Columbia University Law School. The committee will consider formulating recommendations concerning this subject, and desires to obtain further information on several questions from interested persons or organizations. Comments on Professor Grad's draft report would also be welcome. Copies are available from the Office of the Chairman of the Administrative Conference.

Background

The subject of indemnification of government contractors for third-party liability involves the following issue: when injury or damage to a third party is caused by products or services supplied by government contractors, who should bear the risk of liability—the government, the contractor, or the third party? This issue is especially significant when the products or services involve high-risk or hazardous governmental activities.

The liability of the government is limited by the doctrine of sovereign immunity, which has been waived in certain situations such as the Federal Tort Claims Act. Although the case law has established immunity from liability for certain government contractors, such immunity is conditioned on the contractor having complied fully with applicable government contract specifications as well as not having withheld relevant safety knowledge from the government. Contractors are concerned about their exposure based on claims that they failed to follow specifications or have not done enough to make the government heed their warnings about needed product design corrections. Of more general concern is whether it is appropriate to let third-party victims bear the damages resulting from accidents caused by government contracts (recognizing that in the large majority of cases in which such contractor immunity has been found, the third-party victims were entitled to disability or workers compensation benefits). The issue of government indemnity has increased in importance as the potential of government contracts to cause mass injuries has grown.

Currently, there is no government-wide legislation which authorizes or mandates indemnification of government contractors for third-party liability. Instead, there are specific statutes that permit indemnification, such as the National Defense Contracts Act, as implemented by Executive Order 10789, and certain other provisions that address unusually hazardous activities.

Questions

To assist the committee, it would be helpful to receive comments with respect to the following questions:

1. *Agency authority.* Some agencies with contracting authority also have authority to include indemnification clauses in their contracts in instances when they decide that it would be in the public interest to indemnify a contractor. Where this is so, is that authority inadequate, adequate, or too great? Should other agencies have such authority? Should there be either statutory changes or revision of Executive Order 10789 to provide the necessary authority?

2. *Risk Assessment.* In determining whether particular contractors ought to be granted indemnification, do federal agencies follow adequate procedures to determine the degree of hazard or risk and the availability of private insurance? ("Risk" here refers broadly to the probability of bodily injury, litigation, or other events that may result in expense to the agency.) To what extent do agency contracting personnel have the expertise to address such questions, and where do (or should) the agencies turn to if further expertise is needed?

3. *Information and record-keeping.* Is adequate information available to the public about amounts paid out, as well as total potential liability, under indemnificaiton clauses? Would a requirement for periodic reports by agencies listing payments and contingent liabilities be worth the time and expense needed to prepare them?

4. *Other considerations.* How well do agencies address the following issues when deciding to grant an indemnity clause to a contractor?

(a) Whether an indemnification clause or payment of an indemnity under such a clause will have a detrimental impact on programs of the agency or other units of the government.

(b) Incentives for the agency to manage the contract well.

(c) Incentives for the contractor to carry on activities under the contract in a safe and prudent manner.

(d) Incentives for the contractor to defend itself or to help defend the government in any subsequent litigation.

(e) Possible impact on the insurance industry's willingness to make available private insurance for the kinds of activities covered.

Responses to the foregoing questions would be most helpful if received by March 1, 1988. The committee plans to discuss this subject in the light of any comments that may be received at a meeting in early March. Any questions on this inquiry should be directed to Conference staff attorney David M. Pritzker in the Office of the Chairman (202-254-7065).

Dated: February 5, 1988.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87-2810 Filed 2-8-88; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1987 Charter, Rural, and Intercity Bus Survey.

Form Number: Agency—B-530, B-531; OMB—NA.

Type of Request: New collection.

Burden: 2,000 respondents; 4,000 reporting hours.

Needs and Uses: This survey is the only annual source of data for the universe of employer firms providing intercity, rural, and charter bus transportation services. These data are used by the Federal Government for computation of the national accounts, and by private industry for marketing analysis.

Affected Public: Businesses or other for profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: February 3, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-2699 Filed 2-8-88; 8:45 am]

BILLING CODE 3510-07-M

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (App. (1982), and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Agriculture Statistics is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was originally established in July 1962. The Department of Commerce last renewed this Committee on January 21, 1988.

This Committee will continue to provide advice to the Director, Bureau of the Census, on the conduct of periodic censuses of agriculture and related surveys and the kind of information that should be obtained from respondents associated with agricultural production; to make recommendations regarding the contents of agricultural reports; and to present the data needs of major suppliers and users of agriculture statistics. The Committee plays a vital role in advising the Census Bureau on the structuring and planning of the agriculture censuses and surveys.

The Committee will have a balanced representation of 21 member organizations, each appointing a person to the Committee subject to the concurrence of the Director, Bureau of the Census. This Committee will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

The Department of Commerce will file copies of the Committee's renewed charter with appropriate committees in Congress.

You may address inquiries or comments to Mr. George E. Pierce, Committee Control Officer, Agriculture Division, Bureau of the Census, Room 3009, FB 4, Washington, DC 20233, telephone (301) 763-7731.

Date: February 2, 1988.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 88-2650 Filed 2-8-88; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

President's Export Council, International Competitiveness and Productivity Subcommittee; Open Meeting

A meeting of the President's Export Council Subcommittee on International Competitiveness and Productivity will be held February 24, 1988, 1:00-4:00 p.m., in Room 4832, Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda: Discussion of draft reports on improving the competitiveness of U.S. industry, prioriting on competitiveness, the effect of competitiveness on trade, and other related matters.

For further information or copies of the minutes contact Laureen Daly (202) 377-1125, Room 3213, U.S. Department of Commerce, Washington, DC 20230.

Dated: February 4, 1988.

Henry P. Misisco,

Director, Office of Planning and Coordination, Trade Development.

[FR Doc. 88-2700 Filed 2-8-88; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Commodity Futures Trading Commission ("Commission") previously published in the **Federal Register** proposals of the Chicago Board of Trade ("CBT") for designation as futures contract markets in the CBOE (Chicago Board Options Exchange) 250 and CBOE 50 stock indexes. The Director of the Divsion of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that, for these two contracts, an additional period for public comment is warranted.

DATE: Comments must be received on or before March 10, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

Reference should be made to the CBOE 250 or CBOE 50 futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: On August 17, 1987, for the CBOE 250 Futures contract, and September 4, 1987, for the CBOE 50 futures contract, the Commission published in the **Federal Register**, for 60-day comment periods, notices of availability of the CBT's proposed terms and conditions for these futures contracts (52 FR 30712 and 52 FR 33615). On December 8, 1987, the Commission republished in the **Federal Register**, for a 30-day comment period, a notice of availability of the terms and conditions of these two proposed contracts (52 FR 46517). In a January 26, 1988 letter to the Commission, the CBT requested that the Commission republish the terms and conditions of the proposed contracts. As noted, the Director of the Division has determined that, for these proposed contracts, an additional comment period is warranted.

Copies of the terms and conditions of the proposed futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submited by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date

Issued in Washington, DC on February 3, 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88–2625 Filed 2–8–88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Agency Information Collection Activities Submitted to OMB

Reason for This Notice: The Department of Defense 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).

Title Applicable Form and Applicable OMB Control Number: Information Collection in Support of DoD Acquisition Process and DoD FAR Supplement 8.404(a)(70), Required Sources of Supply and Services; DD Form 1155 and DD Form 1155C–1; and OMB No. 0704–0187.

Type of Request: Extension.

Annual Burden Hours: 88,394,000.

Annual Responses: 25,843,000.

Needs and Uses: This information is collected from contractors who respond to Government solicitations. The information is used by the Government to evaluate contractor's proposals.

Affected Public: Business or other for profit.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 3, 1988.

[FR Doc. 88–2673 Filed 2–8–88; 8:45 am]

BILLING CODE 3810-01-M

Department of The Army

Availability of the Draft Environmental Impact Statement for the Biological Aerosol Test Facility

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability of draft environmental impact statement, proposed biological aerosol test facility, Dugway Proving Ground, Utah.

SUMMARY: 1. The Department of the Army, as Executive Agency for the Department of Defense (DOD), is responsible for research, development, testing, and evaluation of equipment and procedures for biological defense. The Army has proposed the construction and operation of a biosafety level 4 (BL4) Biological Aerosol Test Facility (BATF) at Dugway Proving Ground (DPG), Utah. The BATF was designed for operation at biosafety level 4 (BL4). The facility is required to provide the necessary capability to test and evaluate the effectiveness of protective equipment, detection/warning devices, and decontamination techniques for known and suspected threat biolgoical materials. Alternatives to the proposed action that were studied in the draft EIS, are, "no action", i.e., the continued use of present facilities at DPG; construct and operate a BATF elsewhere; the use of other existing facilities within DOD; the use of biological simulants instead of pathogenic microorganisms; the construction and operation of a BATF at a lower containment level (BL3); and to consider an alternate site on DPG. The draft EIS concludes that the construction and routine operation of a BATF, whether adopting the proposed action or any of the alternatives, pose no threat to the laboratory workers, the unprotected public, or the environment under normal operating conditions. The only reasonable foreseeable environmental consequence from the proposed action or the alternatives would result from an accidentally infected laboratory worker exiting the BATF. Thus, the draft concludes that, it is not likely that this would have an environmental impact, given the training regimen, personal safety interest, medical review status of the staff, and the available medical support.

2. The draft EIS for the Biological Aerosol Test Facility is available for public review and comment. A copy of the document may be obtained by contacting Ms. Kathy Whitaker at commercial telephone (801) 831–2116, or by writing to the following address: Commander, U.S. Army Dugway Proving

Ground, STEDP-PA, Dugway Utah, 84022-5000. Written comments should be submitted to the same address. Public meeting is scheduled for the March timeframe. Specific meeting time and place will be published in various newspapers.

3. The time period for providing written coments for consideration in preparing the final EIS will end 50 days from the date the Environmental Protection Agency publishes this Notice of Availability in the **Federal Register.**

Lewis D. Walker,

Deputy for Environmental Safety and Occupational Health OASA (I&L)

[FR Doc. 88-2697 Filed 2-8-88; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Open Meeting Chief of Engineers Environmental Advisory Board

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is open to the public.

DATE: The meeting will be held from 8:00 a.m., Tuesday, March 8, 1988, to 1:00 p.m., Thursday, March 10, 1988.

ADDRESS: The meeting will be held at the Hotel Queen Mary, berthed at Pier J, Long Beach, CA 90801.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Kit J. Valentine, Chief, Office of Environmental Policy or Ms. Sue Brown, Office of the Chief of Engineers, Washington, DC 20314-1000, (202) 272-0166.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the 43rd Meeting of EAB, "Corps Civil Works Environmental Program and its Future Direction", is:

Monday—7 March 1988

0800-1700 Registration
1700-1830 Social Hour (No Host)

Tuesday—8 March 1988

0800-0900 EAB Introduction and Swearing In New Members, LTC Valentine
0900-0930 Welcome
0930-1000 Old Buinesss, LTC Valentine
1000-1015 Break
1015-1045 HQ USACE Overview and Charge to the Board, MG Hatch
1045-1130 EAB Chairmen's Response, Mr. Guess
1130-1230 Lunch (For EAB members)
1230-1330 ASA (CW) Environmental Perspective, Mr. John S. Doyle, Jr., Principal Deputy Assistant Secretary of the Army (Civil Works),
1330-1430 Planning Division), Mr. Mauldin
1430-1500 Break
1500-1600 Operations and Readiness Division, Mr. Elmore
1600-1700 Regulatory (Operations and Readiness Division), Mr. Elmore

Wednesday—9 March 1988

0830-0930 Dredging Division, Mr. Hummer
0930-1030 Policy, Review and Initiatives Division, Dr. Steinberg
1030-1045 Break
1045-1145 Programs Division, Mr. Cluff
1145-1300 Lunch (on your own)
1300-1400 R&D (includes ITAM Briefing), Dr. Oswald
1400-1500 Engineering Division, Mr. Kennan
1500-1530 Break
1530-1630 Construction Division, Mr. Hanson
1630-1730 Wrap up, MG Hatch

Thursday—10 March 1988

0900-1000 EAB Presentation of Recommendations, Mr. Guess
1000-1030 Break
1030-1130 Chief of Engineer Response, To be determined
1130-1200 Honor Mr. McKnight, MG Hatch
1200 Meeting Adjournment
1200-1300 Luncheon (For EAB members), LTC Valentine

John O. Roach II,

Army Liaison Officer, with the Federal Register.

[FR Doc. 88-2628 Filed 2-8-88; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 10, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden: and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 3, 1988.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

T3Type of Review: New.

Title: Robert C. Byrd Honors Scholarship Program Performance Report.

Agency Form Number: E40-33P.

Frequency: Annually.

Affected Public: State and local governments.

Reporting Burden:

Responses: 52.
Burden Hours: 52.

Recordkeeping:

Recordkeepers: 52.
Burden Hours: 78.

Abstract: State education agencies that have participated in the Robert C. Byrd Honors Scholarship Program submit this report to the Department. The Department uses the information to assess the accomplishments of project goals and objectives and to aid in effective management.

Type of Review: Revision.
Title: Performance Report for the Foreign Language and Area Studies Program.
Agency Form Number: ED 7614, 7608, and 7632.
Frequency: Annually.
Affected Public: Individuals or households and non-profit institutions.
Reporting Burden:

Responses: 964.
Burden Hours: 1542.4.

Recordkeeping:

Recordkeepers: 0
Burden Hours: 0.

Abstract: Grantee institutions that have participated in the Foreign Language and Area Studies Program submit student information, an institutional listing of awardees and a performance report to the Department. The Department uses the information to analyze and determine the national need for specified fields of instruction and to identify areas of professional study to determine program priorities.

Office of Vocational and Adult Education

Type of Review: Extension.
Title: Application for Vocational and Adult Education Direct Grant Programs.
Agency Form Number: ED 3176.
Frequency: Annually.
Affected Public: Individuals or households, State and local governments, and non-profit institutions.
Reporting Burden:

Responses: 420.
Burden Hours: 8400.

Recordkeeping:

Recordkeepers: 0.
Burden Hours: 0.

Abstract: This form will be used by applicants to apply for funding under Vocational and Adult Education direct grant programs. The Department uses the information to make grant and cooperative agreement awards.

Office of Special Education and Rehabilitative Services

Type of Review: New.
Title: Programs of Instruction for Handicapped Children and Youth in Day and Residential Facilities Study.
Agency Form Number: B20–34P.
Frequency: One time only.
Affected Public: State and local governments, businesses or other for-profit, non-profit institutions, and small businesses or organizations.
Reporting Burden:

Responses: 5350.
Burden Hours: 4819.

Recordkeeping:

Recordkeepers: 0.
Burden Hours: 0.

Abstract: This study will collect information from principals and facility directors of educational services to handicapped persons. The Department uses the information to determine the national estimates of program and student population characteristics, and to evaluate the effectiveness of procedures undertaken by educational agencies to improve services to handicapped children and youth.

[FR Doc. 88–2731 Filed 2–8–88; 8:45 am]
BILLING CODE 4000-01-M

[CFDA No.: 84.177]

Invitation for Applications for New Awards Under the Independent Living Services for Older Blind Individuals Program of the Rehabilitation Services Administration for Fiscal Year 1988

Purpose: Provides grants to State vocational rehabilitation agencies to support independent living services for older blind individuals to help them adjust to blindness and live more independently in the home and community.

Deadline for Transmittal of Applications: April 11, 1988.

Applications Available: February 10, 1988.

Available Funds: $5,600,000 The amount of available funds in this notice is an estimate.

Estimated Range of Awards: $180,000–$220,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 28.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and (b) when adopted in final form, the Notice of Proposed Rulemaking, proposed 34 CFR Part 367, for this program published in the **Federal Register** on January 29, 1988 (53 FR 2702). Applicants should prepare their applications based on the proposed regulations. If there are any significant changes in the final regulations, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: Mary V. Vest, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue SW., Room 3332 Switzer Building, Mailstop 2312, Washington, DC 20202. Telephone: (202) 732–1343.

Program Authority: 29 U.S.C. 796f.

Dated: February 3, 1988.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 88–2730 Filed 2–8–88; 8:45 am]
BILLING CODE 4000-01-M

[CFDA No.: 84.129U]

Invitation for Applications for New Awards Under the Rehabilitation Continuing Education Program of the Rehabilitation Services Administration for Fiscal Year 1988

Purpose: Provides funding through cooperative agreements to State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, for training centers that serve either a Department of Education region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel. The amount of available funds in this notice is an estimate. Applications are invited from all Department of Education regions except Region IV (Alabama, Florida, Kentucky, North Carolina, South Carolina, Tennessee, Georgia, and Mississippi).

Deadline for Transmittal of Applications: April 1, 1988.

Applications Available: February 9, 1988.

Estimated Available Funds: $3,100,000.

Estimated Range of Awards: $270,000–$432,000.

Estimated Average Size of Awards: $345,000.

Estimated Number of Awards: 9.

Project Period: Not to exceed 60 months.

Applicable Regulations: (a) Rehabilitation Services Administration Regulations, 34 CFR Parts 385 and 389; and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications or Further Information Contact: Mary Vest, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue SW., Room 3332 (Switzer Building, M/S-2312), Washington, DC 20202. Telephone: (202) 732-1343.

Program Authority: 29 U.S.C. 774.

Dated: February 2, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88-2732 Filed 2-8-88; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Women's Education Programs; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of the National Advisory Council on Women's Educational Programs and its Executive; Federal Policies, Practices and Programs; WEEA Program and Civil Rights Committees. The agenda will include presentation of a research paper prepared for the Council on the "Gender at Risk"; a briefing on the status of vocational equity; a futurist look at women in leadership roles; a panel discussion with Community agency representatives on public/private partnerships that assist "at risk" women, a briefing from the Arizona Superintendent of Public Instruction; budget review; discussion of Council's research paper, "Options and Decisions in Women's Educational Equity"; Committee reports; and Council calendar. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

March 8, 1988
- 7:00 p.m. to 9:00 p.m. Executive Committee Meeting

March 9, 1988
- 9:00 a.m. to 11:45 a.m. General Session—Full Council
- 1:30 p.m. to 3:00 p.m. Site visit—Arizona Women for Economic Equity—Full Council

March 10, 1988
- 9:00 a.m. to 11: 30 a.m. General Session—Full Council
- 1:30 p.m to 4: 00 p.m. Committee Meetings

March 11, 1988
- 8:30 a.m. to 9:30 a.m. Executive Committee Meeting
- 10:00 a.m. to 1:00 p.m. Full Council Meeting

ADDRESS: All meetings will be held in the Santa Cruz Room of Memorial Union on the campus of Arizona State University, Tempe, Arizona, except for meetings of the Executive Committee which will be held at the Fiesta Inn, 2100 Priest Drive, Tempe, Arizona.

FOR FURTHER INFORMATION CONTACT: Patricia A. Weber, Executive Director, National Advisory Council on Women's Educational Programs, Mary E. Switzer Bildg., 330 "C" Street, SW., Suite 4076, Washington, DC 20202, (202) 732-3890.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L 95-561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The Executive Committee will meet on Tuesday, March 8, at 7:00 p.m. at the Fiesta Inn until they recess at 9:00 p.m. The agenda will include discussion of Council's study, "Options and Decisions in Women's Educational Equity", budget review and Council agenda. The Executive Committee will reconvene on Friday, March 11, at 8:30 a.m. and adjourn at 9:30 a.m. Agenda will include discussion of annual report and committee goals and objectives.

The meeting of the Federal Policies, Practices and Programs; Civil Rights; and WEEA Program Committees will take place on Thursday, March 10, at 1:30 p.m. and adjourn at 4:00 p.m. The agenda will include general discussion and committee goals and objectives.

The full Council will meet in general session on Wednesday, March 9 at 9:00 a.m. until 11:45 a.m. for an address by Dr. Suzy Seibert, Area Agency on Aging, Phoenix, on the "Gender at Risk"; a status report on vocational equity by Jenny Erwin, Specialist Vocational Education, Arizona Department of Education; and an address by Dr. Carolyn Disjardins of the Institute for Leadership Development, Phoenix. At 1:30 p.m. the full Council will tour the workshop site of Arizona Women for Economic Equity (AWEE). Luncheon address will be by the Mayor of Tempe, the Honorable Harry Mitchell. On Thursday, March 10 the full Council will convene at 9:00 a.m. and will participate in a panel discussion moderated by Dr. Mary Louise Burum of the Tempe Community Council. Panelists will be representatives of agencies from the Tempe Community Council and will discuss public/private partnerships that assist "at risk" women. Luncheon address will be by C. Diane Bishop, Supt. of Public Instruction, Arizona Department of Education. On Friday, March 11, the full Council will convene from 10:00 a.m. until 1:00 p.m. The agenda will include committee reports, budget review, discussion of annual report, discussion of Council research papers, and Council calendar. The meeting of the Council is open to the public.

Records will be kept of the preceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, Mary E. Switzer Bldg. 330 "C" Street, SW., Suite 4076, Washington, DC, 20202.

Signed at Washington, DC on February 2, 1988.

Patricia A. Weber,

Executive Director.

[FR Doc. 88-2674 Filed 2-8-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER88-68-000 et al.]

New England Power Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. New England Power Company

[Docket No. ER88-68-000]

February 2, 1988.

Take notice that on December 31, 1987, New England Power Company (NEP) tendered for filing additional data and documentation related to its October 30, 1987, filing in the above-referenced docket. NEP states that this submittal is in response to a deficiency letter dated November 30, 1987, from the Director of the Division of Electric Power Application Review and is

submited as an amendment to its initial filing. NEP's amendment and initial filing were made pursuant to Order No. 475 and § 35.27 of the Commission's regulations.

NEP requests that the amendment be accepted one day out of time from the 30-day requirement set by the Director. As good cause for this request, NEP states that it was delayed in compiling the requested data upon receipt of additional guidance from Staff as to what information should be submitted.

NEP states that the amendment addresses the four specific requests enumerated by the Director's letter. NEP further states that this amendment does not require any revisions to the previously submitted revised rates and, therefore, revised rate schedules have not been included in the amendment filing.

Comment date: February 16, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Connecticut Light and Power Company, et al.

[Docket Nos. ER87-273-000 and ER87-274-000]

February 2, 1988.

Take notice that on January 28, 1988, the Connecticut Light and Power Company (CL&P) tendered for filing an amendment to a proposed initial rate schedule with respect to a Transmission Agreement dated March 1, 1987 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Green Mountain Power Corporation (GMP).

CL&P states that the amendment was filed in response to a deficiency letter from the Commission in which the Commission raised several questions regarding justification of CL&P's transmission rate. CL&P states that it has revised the formula for the transmission rate and it is providing backup for this new formula in response to the Commission's letter.

CL&P states that a copy of this material has been mailed to GMP, South Burlington, Vermont and to the Bozrah Light and Power Company, Gilman, Connecticut.

CL&P further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: Februay 16, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company; Public Service Company of New Hampshire

[Docket No. ER88-218-000]

February 2, 1988.

Take notice that on January 28, 1988, New England Power Company (NEP) and Public Service Company of New Hampshire (PSNH) tendered for filing an executed Transmission Support Agreement for the construction and operation of transmission facilities associated with the Seabrook Station nuclear generating project (Support Agreement). NEP and PSNH also submitted for filing a Letter Agreement between them related to the completion of certain facilities subject to the Support Agreement.

According to NEP and PSNH, under the Support Agreement, dated May 1, 1973, NEP and PSNH have agreed with the joint owners of the Seabrook project to construct three 345 kV transmission facilities associated with the project: Seabrook to Scobie Substation, Seabrook to Tewksbury Substation, and Seabrook to Newington Substation. PSNH states that it completed and placed in service the Newington line April 1, 1982 and the Scobie line on December 12, 1983. Accordingly, PSNH requests that the Support Agreement and the charges calculated thereunder be allowed to become effective coincident with these in-service dates.

NEP and PSNH state that the Seabrook-Tewksbury line is partially completed and is anticipated to be commercial by June 1988. NEP and PSNH request that charges under the Support Agreement related to that line be allowed to become effective upon commercial operation of the line.

NEP and PSNH further state that copies of this filing have been served upon all of the Participants and signatories to the Support Agreement.

Comment date: February 16, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER88-219-000]

February 3, 1988.

Take notice that on January 29, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing, as an initial rate schedule, an Interconnection Agreement Between Pacific Gas and Electric Company and Turlock Irrigation District (Turlock) (Agreement), covering rates, terms, and conditions for services rendered by PG&E pursuant to the Agreement.

Prior to January 1, 1988, PG&E directly served the City and County of San Francisco (CCSF) under PG&E Rate Schedule FPC No. 53, as amended, with partial requirements services and support services to meet CCSF's load (which load includes Turlock). From July, 1985 through midnight, December 31, 1987, PG&E provided the services described above to CCSF, including support services for specified resources of Turlock and the Modesto Irrigation District (MID), under an interim extension of PG&E Rate Schedule FPC No. 53 (Interim Agreement). By means of a four-party agreement, filed with FERC on December 28, 1987 (Docket No. ER88-168-000), CCSF, Turlock, MID and PG&E extended the Interim Agreement, with modifications, until April 1, 1988. Upon its effective date, PG&E will provide services directly to Turlock under the Agreement.

Pursuant to the Agreement, PG&E will provide the following services:

Obligation Service, Rate Schedule A.

Reserved Transmission Service, Rate Schedule B.

Coordination Power Sales, Rate Schedule C.

Coordination Transmission Service, Rate Schedule D.

Contract Firm Power Sale, Rate Schedule E.

Support Power Sale, Rate Schedule F.

Firm Power Sale, Rate Schedule G.

Scheduling Service, Rate Schedule H.

Regulation Service, Rate Schedule I.

Standby Station Service, Rate Schedule J.

Voltage Regulation, Rate Schedule K.

Reactive Power Correction, Rate Schedule L.

In addition, the following is covered by the Agreement: Rate Procedures for Diablo Canyon Nuclear Power Plant, Rate Adjustments and Fuel Cost Adjustment.

PG&E and TID are requesting an effective date of April 1, 1988 to follow immediately the expiration of the four-party extension of the Interim Agreement.

Copies of this filling were served upon TID, CCSF, MID and the Public Utilities Commission of the State of California.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. United Illuminating Company, et al

[Docket No. ER88-221-000]

February 3, 1988.

Take notice that on January 29, 1988, United Illuminating Company (UI) tendered for filing as a rate schedule the Unit Sale Agreement (Agreement) between UI and Central Vermont Public Service Corporation (CVPS). The Agreement, dated as of February 13, 1986, provides for UI to sell unit

capacity and associated energy from certain of its generating units to CVPS.

The term of the Agreement began on February 12, 1986 and continued until April 4, 1986.

UI requests that the Commission waive its standard notice period and allow the Agreement to become effective on February 12, 1986.

CVPS has filed a Certificate of Concurrence in this docket.

UI states that a copy of this rate schedule has been mailed to CVPS, Rutland, Vermont.

UI further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this document.

6. Carolina Power & Light Company

[Docket No. ER88-220-000]

February 3, 1988.

Take notice that on January 29, 1988, Carolina Power & Light Company (Company) tendered for filing in Docket No. ER88-220-000 changes to Company's monthly charge for wheeling service for the delivery of power from the John H. Kerr Dam and Reservoir (Kerr Project) to recipients in Company's eastern area and for the delivery of power from the Cumberland Projects to recipients in Company's western area. The monthly charge for wheeling service for the delivery of power from the Kerr Project is based on the formula contained in Appendix A of the Contract, Company Rate Schedule FERC, No. 127 dated January 23, 1987, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration (Administrator) and Company. The monthly charge for wheeling service for the delivery of power from the Cumberland Projects is based on the formula contained in Appendix A of the Contract, Company Rate Schedule FERC No. 126 dated August 21, 1986, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration and Company. Company's monthly wheeling charges filed herewith decreased from the 1987 charges and are each applicable for the time period April 1, 1988, through March 31, 1989. These rates are filed with the Commission as a result of a change in return on common equity pursuant to the exhibits to Appendices A of Rate Schedule FERC No. 126 and Rate Schedule FERC No. 127. It is proposed that the supplements filed herewith become effective 60 days after filing.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 88-2711 Filed 2-8-88; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 10474-000 et al.]

Hydroelectric Applications (City of Durham, N.C., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1. a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 10474-000.

c. *Date Filed*: September 15, 1987.

d. *Applicant*: City of Durham, North Carolina.

e. *Name of Project*: Lake Michie.

f. *Location*: Flat River, Durham County, North Carolina.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a) - 825(r).

h. *Applicant Contact*: Mr. A.T. Rolan, Director, Department of Water Resources, City of Durham, 101 City Hall Plaza, Durham, NC 27701, (919) 683-4381.

i. *FERC Contact*: Dean Wight, (202) 376-9821.

j. *Comment Date*: March 10, 1988.

k. *Description of Project*: The proposed project would consist of: (1) An existing concrete gravity dam 620 feet long and 92 feet high; (2) an existing impoundment of 673 acres surface area and 18,660 acre-feet storage capacity at a normal maximum surface elevation of 352 feet NGVD; (3) two existing 60-inch diameter conduits; (4) an existing powerhouse, to be refurbished; (5) two proposed turbine-generators of 560 kW capacity each; (6) a proposed 2.3-kV transmission line 3,000 feet long; and (7) appurtenant facilities. The net hydraulic head would be 82 feet. The estimated annual energy production is 4.6 GWh. Project power would be sold. The existing facilities are owned by the applicant, who estimates that the cost of the work to be performed under the preliminary permit would be $33,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

2. a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 10515-000.

c. *Date Filed*: November 17, 1987.

d. *Applicant*: David W. DePuy.

e. *Name of Project*: Emigrant Creek Hydroelectric Project.

f. *Location*: On Emigrant Creek near the town of Emigrant, in Park County, Montana.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a) - 825(r).

h. *Applicant Contact*: G.L. Smith, P.O. Box 1016, Idaho Falls, ID 83405, (208) 529-8115.

i. *FERC Contact*: Thomas Dean, (202) 376-9275.

j. *Comment Date*: March 10, 1988.

k. *Description of Project*: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long diversion structure with an inlet elevation of 6,400 feet msl; (2) a 24-inch-diameter, 4,500-foot-long penstock leading to; (3) a powerhouse containing a single generating unit with a capacity of 600 kW; (4) a tailrace; and (5) a 2-mile-long, 24.9-kV transmission line.

Applicant estimates the average annual energy generation to be 3,935 MWh. The approximate cost of the studies under the permit would be $35,000.

l. *Purpose of Project*: Applicant intends to sell the power generated at the proposed facility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3 a. *Type of Application:* Change in Land Rights.

b. *Project No.:* 516-049.

c. *Date Filed:* November 3, 1987.

d. *Applicant:* South Carolina Electric & Gas Company.

e. *Name of Project:* Saluda.

f. *Location:* Saluda River in Lexington County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Randolph R. Mahan, Associate General Counsel, Columbia, SC 29218, (803) 748-3538.

i. *FERC Contact:* Peter K. Lyse, (202) 376-9479.

j. *Comment Date:* March 2, 1988.

k. *Description of Application:* South Carolina Electric & Gas Company, licensee for the Saluda Project, seeks Commission authorization to issue a permit to Elliott S. Close and/or H. Wayne Beam for the construction of a private marina at Mariner's Lee Subdivision, off Amick's Ferry Road near Chapin in Lexington County, South Carolina. The proposed facilities would include a fixed pier, floating docks and 102 boat slips, a concrete boat ramp, and fuel and pump-out facilities. (A copy of the application may be obtained by interested parties directly from the licensee).

l. This notice also consists of the following standard paragraphs: B and C.

4 a. *Type of Application:* Transfer of License.

b. *Project No.:* 7120-007.

c. *Date Filed:* November 12, 1987.

d. *Applicant:* Stewart Ranches, Inc.

e. *Name of Project:* Kekawaka Creek.

f. *Location:* On Kekawaka Creek, near Alderpoint, in Trinity County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Paul V. Nolan, Corporate Counsel, Hydroelectric Development, Inc., 6219 North 19th Street, Arlington, VA 22205.

i. *FERC Contact:* Ahmad Mushtaq, (202) 376-1900.

j. *Comment Date:* March 2, 1988.

k. *Description of Proposed Transfer of License:* Steward Ranches, Inc. proposes to transfer the license to Kekawaka Hydro Partners and Steward Ranches, Inc. in order to facilitate the financing of the licensed project. The construction of the project has not been commenced. The transferee is a private partnership organized under the law of the State of California. Transferee states that it will comply with all the applicable laws of the State of California as required by section 9(b) of the Federal Power Act.

l. This notice also consists of the following standard paragraphs: B and C.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10518-000.

c. *Date Filed:* November 24, 1987.

d. *Applicant:* Stukel Mountain Hydroelectric Company.

e. *Name of Project:* Stukel Mountain Hydroelectric Pump Storage Project.

f. *Location:* On the USBR Irrigation Canal near the town of Merrill, in Klamath County, Oregon. Township 40S and Range 10E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Bart M. O'Keeffe, Mutual Energy Co., P.O. Box 60565, Sacramento, CA 95860, (916) 971-3717.

i. *FERC Contact:* Thomas Dean, (202) 376-9275.

j. *Comment Date:* March 28, 1988.

k. *Description of Project:* The proposed project would occupy lands of the United States administered by the U.S. Bureau of Land Management and consist of: (1) A 9,500-foot-long, 220-foot-high earth dam forming; (2) an upper reservoir with a water surface area of 200 acres, a storage capacity of 24,000 acre-feet, and a water surface elevation of 5,590 feet msl; (3) a 940-foot-long, 26-foot-diameter vertical power tunnel and a 13,500-foot-long, 26-foot-diameter horizontal power tunnel leading to; (4) a powerhouse containing two generating units with a total installed capacity of 420-MW; (5) a 9,000-foot-long, 90-foot-high earth dam forming; (6) a lower reservoir with a water surface area of 560 acres, a storage capacity of 24,000 acre-feet, and a water surface elevation of 4,170 feet msl; (7) a small pumping plant and a 47-inch-diameter, 1.5-mile-long pipeline to provide water for the lower reservoir; and (8) a 500-foot-long, 230-kV transmission line.

The applicant estimates that the project will use 1,486,800 MWh, and the average annual energy production will be 1,073,100 MWh. The approximate cost of the studies under the permit will be $800,000.

l. *Purpose of Project:* Applicant intends to sell the power generated at the proposed facility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10522-000.

c. *Date Filed:* December 7, 1987.

d. *Applicant:* Franklin Hydro, Inc.

e. *Name of Project:* Whittelsey Dam.

f. *Location:* Salmon River in the Village of Malone, Franklin County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Frank O. Christie, Franklin Hydro, Inc., Ballard Mill, S. William St., Malone, New York 12953.

i. *FERC Contact:* Dawna Leitzke, (202) 376-9820.

j. *Comment Date:* March 28, 1988.

k. *Project Description:* The proposed project would consist of: (1) An existing 20-foot-high, 120-foot-long concrete gravity dam with; (2) 1.83-foot-high wooden flashboards; (3) a reservoir with a surface area of 2 acres, a storage capacity of 10 acre-feet, and a normal water surface elevation of 662.17 m.s.l.; (4) an existing intake structure; (5) a new 7-foot-diameter, 645-foot-long steel penstock; (6) a new powerhouse containing one generating unit with a capacity of 600 kW; (7) an existing tailrace; (8) a new transmission line, 50 feet long, 13.2 kV overhead line; and (9) appurtenant facilities. The Applicant estimates the average annual generation would be 1,700,000 kWh. The existing dam is owned by the Village of Malone, New York and Franklin County, New York.

l. *Purpose of Project:* Project power would be sold to Niagara Mohawk Power Corporation.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, B, C, and D2.

n. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $13,000.

7 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10525-000.

c. *Date Filed:* December 10, 1987.

d. *Applicant:* White Chuck Water Company.

e. *Name of Project:* Clear Creek Hydropower.

f. *Location:* On Clear Creek in Snohomish County, Washington, within Mt. Baker Snoqualmie National Forest: Township 31 North, Range 10 East.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. William S. Fowler, Mitex, Inc., 91 Newbury Street, Boston, MA 02116, (617) 424-1888.

i. *FERC Contact:* Mr. James Hunter, (202) 376-9814.

j. *Comment Date:* March 28, 1988.

k. *Description of Project:* The proposed project would consist of: (1) A 10-foot-high diversion weir at streambed elevation 1,200 feet; (2) a 6-foot-diameter, 7,000-foot-long steel penstock; (3) a powerhouse at elevation 720 feet containing two generating units, one rated at 5 MW and one rated at 1 MW, producing an average annual output of 20.0 GWh; and (4) a 5-mile-long

transmission line connecting to the existing utility grid near Darrington. The estimated cost of permit activities is $75,000.

l. *Purpose of Project:* The project power would be sold to a utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

8 a. *Type of Application*: New License (Over 5 MW).

b. *Project No.*: 1267–000.

c. *Date Filed*: February 3, 1982.

d. *Applicant*: Greenwood County and Duke Power Company.

e. *Name of Project*: Buzzards Roost.

f. *Location*: On the Saluda River in Greenwood, Laurens and Newberry Counties, South Carolina.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John E. Lansche, Associate General Counsel, Duke Power Company, P.O. Box 33189, Charlotte, NC 28242, (704) 373–4871.

i. *FERC Contact*: Peter K. Lyse, (202) 376–9479.

j. *Comment Date*: April 1, 1988.

k. *Description of Project*: The existing project consists of: (1) A reservoir with surface area of 11,400 acres and an impoundment of approximately 254,000 acre-feet; (2) a 67–foot-high and 2,400-foot-long earthfill dam with a crest elevation of 457.0 feet m.s.l.; (3) an 11-foot-high and 200-foot-long fuse plug dike; (4) a spillway structure containing four 25-foot-high and 38-foot-long taintor gates; (5) a reinforced concrete powerhouse, integral with the spillway structure containing three generating units with a total rated capacity of 15,000 kW; (6) a tailrace; and (7) appurtenant facilities. The project generates an average of 48,557,000 kWh annually. The project is owned by Greenwood County and operated by Duke Power Company under a lease agreement approved by the Commission on June 29, 1966.

l. *Purpose of Project*: Project energy is integrated into the Duke Power Company system.

m. *This notice also consists of the following standard paragraphs:* B and C.

9 a. *Type of Application*: Transfer of License.

b. *Project No.*: 7447–004.

c. *Date Filed*: December 8, 1987.

d. *Applicant*: Commercial Energy Management, Inc.

e. *Name of Project*: Portneuf River Hydroelectric.

f. *Location*: On the Portneuf River in Bannock County, Idaho.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Bob L. Nestor, 4950 Valenty Road, Suite C, Chubbuck, ID 83202, (208) 237–7074.

i. *FERC Contact*: James Hunter, (202) 376–9814.

j. *Comment Date*: March 10, 1988.

k. *Description of Project*: On December 29, 1986, a minor license was issued to Commercial Energy Management, Inc. (licensee) for the contruction, operation, and maintenance of the Portneuf River Project No. 7447. It is proposed to transfer the license to Hydro Power Management, Inc. (transferee). The purpose of this proposed license transfer is to facilitate the financing, construction, and operation of the licensed project.

The licensee certifies that it has fully complied with the terms and conditions of the license. The transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

10 a. *Type of Application*: Conduit Exemption.

b. *Project No.*: 10454–000.

c. *Date Filed*: August 10, 1987.

d. *Applicant*: North Side Canal Company, Ltd.

e. *Name of Project*: Wilson Lake.

f. *Location*: On Wilson Lake in Section 24, T9S, R19E, near Hazelton in Jerome County, Idaho.

g. *Filed Pursuant to*: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. *Applicant Contact:* Mr. John Rosholt, P.O. Box 1906, Twin Falls, ID 83303–1906, (208) 734–0700.

i. *FERC Contact*: Ms. Julie Bernt, (202) 376–9812.

j. *Comment Date*: March 10, 1988.

k. *Description of Project*: The proposed project would utilize an existing reservoir and masonry dam which are used for irrigation and stockwater and would consist of a powerhouse located at the toe of West Dam containing three generating units with a total rated capacity of 6,300 kW. The average annual energy production would be 17.78 GWh.

l. *Purpose of Project*: Project power would be sold to the local power company.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D3b.

11 a. *Type of Application:* Minor License.

b. *Project No.:* 10489–000.

c. *Date Filed:* October 15, 1987.

d. *Applicant:* River Falls Municipal Utility.

e. *Name of Project:* River Falls Municipal Hydroelectric Facility.

f. *Location:* On the Kinnickinnic River in Pierce County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Kenneth DeVillers, River Falls Municipal Utility, 125 East Elm Street, River Falls, Wisconsin 54022, (715) 425–6715.

i. *FERC Contact:* Nanzo T. Coley, (202) 376–9416.

j. *Comment Date:* April 4, 1988.

k. *Description of Project:* The proposed project would consist of: (1) Upper facilities; (a) An existing 140-foot-long and 32-foot-high concrete dam; (b) an existing reservoir with a surface area of 15.5 acres and a storage capacity of 142.7 acre-feet at elevation 865.3 m.s.l.; (c) an existing 80-foot-long by 6-foot diameter penstock; (d) an existing powerhouse containing one generating unit rated at 250 kW; (e) existing transmission lines; and (f) appurtenant facilities. (2) Lower facilities; (a) an existing 110-foot-long and 16-foot-high concrete dam located approximately 0.5 mile downstream of the upper dam; (b) an existing reservoir with a surface area of 15.4 acres and a storage capacity of 37 acre-feet at elevation 820 feet m.s.l.; (c) an existing powerhouse containing one generating unit rated at 125 kW; (d) existing transmission lines; and (e) appurtenant facilities. The estimated average annual energy output for the project is 2,000,000 kWh.

l. Energy produced at the project would be utilized by the applicant.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10527–000.

c. *Date Filed:* December 16, 1987.

d. *Applicant:* Colorado River Water Conservancy District.

e. *Name of Project:* Cross Mountain.

f. *Location:* On the Yampa River in Moffat County, Colorado.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Roland C. Fischer, P.O. Box 1120, Glenwood Springs, CO 81602, (303) 945–8522.

i. *FERC Contact:* Hector M. Perez, (202) 376–1669.

j. *Comment Date:* March 31, 1988.

k. *Description of Project:* The project would be located on United States lands administered by the Bureau of Land Management, Section 23, Township 6N, Range 98W, New Mexico Principal Meridian. The proposed project would consist of: (1) A 260-foot-high, 450-foot-long double curvature concrete arch

dam with a crest elevation of 5,900 feet and a central overflow spillway with a crest elevation of 5,868 feet; (2) a reservoir with a storage capacity of 208,000 acre-feet and a surface area of 6,500 acres; (3) an intake structure at the south bank; (4) a 17-foot-diameter, 550-foot-long concrete and steel-lined tunnel; (5) a powerhouse with a total installed capacity of 50 MW; (6) a 260-foot-long stilling basin; (7) a 5-mile-long, 138-kV transmission line connecting the project to the Western Area Power Administration network; and (8) other appurtenances. The applicant estimates an average annual generation of 190,000 MWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10528–000.

c. *Date Filed:* December 16, 1987.

d. *Applicant:* Colorado River Water Conservancy District.

e. *Name of Project:* Juniper.

f. *Location:* On the Yampa River in Moffat County, Colorado.

g. *File Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Roland C. Fischer, P.O. Box 1120, Glenwood Springs, CO 81602, (303) 945–8522.

i. *FERC Contact:* Hector M. Perez, (202) 376–1669.

j. *Comment Date:* March 31, 1988.

k. *Description of Project:* The project would affect United Staes lands administered by the Bureau of Land Management, in section 17, Township 6N, Range 94W, New Mexico Principal Meridian. The project would consist of: (1) A 192-foot-high, 575-foot-long roller compacted concrete dam with a crest elevation of 6,113 feet; (2) a reservoir with a storage capacity of 942,000 acre-feet and a surface area of 15,000 feet; (3) an intake structure at the dam; (4) a 25-foot-diameter, 150-foot-long steel-lined reinforced concrete penstock; (5) a powerhouse with two turbine-generator units with a total installed capacity of 40 MW; (6) a one-mile-long, 138-kV transmission line connecting the project to the Western Area Power Administration network. The applicant estimates an average annual generation of 130,000 MWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

14 a. *Type of Application*: Surrender of License.

b. *Project No.*: 3473–013.

c. *Date Filed*: October 9, 1987.

d. *Applicant*: Hydropool.

e. *Name of Project*: North Canal Dam.

f. *Location*: On the Deschutes River, in the City of Bend, in Deschutes County, Oregon.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact*: Mr. Ivan S. Gold, HydroPool, 3 Embarcadero Center, Suite 1670, San Francisco, CA 94111, (415) 362–4290.

i *FERC Contact*: Mr. William Roy-Harrison, (202) 376–9773.

j. *Comment Date*: March 14, 1988.

k. *Description of Project*: The project would have consisted of a dam, a reservoir, an intake structure, a canal, a penstock, a powerhouse containg a generating unit with a rated capacity of 2,825 kW, a tailrace, a transmission line, and appurtenant facilities.

The licensee states that the regional energy situation establishes that construction and operation of the project is not cost effective at this time. Therefore, licensee requested that its license be terminated. The licensee has not commenced construction of the project.

l. This notice also consists of the following standard paragraphs: B, C, & D2.

15 a. *Type of Application*: Minor License.

b. *Project No.*: 9049–001.

c. *Date Filed*: Septemer 23, 1986.

d. *Applicant*: Carex Hydro.

e. *Name of Proeject*: Pioneer.

f. *Location*: Deckers Creek, Monongalia County, West Virginia.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact*: Dr. Fran Sharples, 2131 Everett Road, Knoxville, TN 37932, (615) 691–0452 or (615) 576–0524.

i *FERC Contact*: Dean Wight, (202) 376–9820.

j. *Comment Date*: April 4, 1988.

k. *Description of Project*: The proposed project would consist of (1) a proposed reinforced concrete dam 120 feet long, 10 feet high, and incorporating an intake, weir, and sedimentation cell; (2) a proposed reservoir of one-half acre surface area and 2.5 acre-feet volume at a normal maximum surface elevation of 1,289 feet msl; (3) a proposed 42-inch-diameter steel penstock 4,200 feet long; (4) a proposed powerhouse 20 feet high, 45 feet long, and 30 feet wide housing two turbine-generators of 1.5 MW combined capacity; (5) a proposed 12.5 kV transmission line 3 miles long; and (6) appurtenant facilities. The estimated annual energy production is 5.3 GWh. The net hydraulic head would be 233 feet. Project power would be sold. The existing site is owned by the Greer Steel Company.

l. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

m. A notice was previously issued on March 6, 1987, for this project. This notice reflects a revision to the proposed transmission line.

16 a. *Type of Application*: Exemption

b. *Project No.*: 9784–001.

c. *Date Field*: August 18, 1987.

d. *Applicant:* North American Hydro, Inc. and Renaissance Hydro Associates.

e. *Name of Project:* Manawa Dam Project.

f. *Location*: On the Little Wolf River in Waupaca County, Wisconsin.

g *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Contact Person*: Charles Alsberg, North American Hydro, Inc., P.O. Box 167, Neshkoro, WI 54960, (414) 293–4628.

i. *FERC Contact*: Nanzo T. Coley, (202 376–9416.

j. *Comment Date*: March 14, 1988.

k. *Description of Project:* The proposed project would consist of: (1) An existing reinforced-concrete dam approximately 146 feet long and 12 feet high; (2) an existing reservoir with a surface area of 194.5 acres and a storage capacity of 1,078 acre-feet at elevation 99.9 feet (local DNR datum); (3) an existing powerhouse, constructed integrally with the dam, containing two proposed units rated at 60 kW and 270 kW, respectively; (4) a transmission line tie to the existing 12.47–kV line at the powerhouse; and (5) appurtenant facilities. The estimated average energy output is 900,000 kWh.

1. *Purpose of Project*: Energy produced at the project would be sold to Wisconsin Power and Light.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

17 a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 10504–000.

c. *Date Filed:* November 6, 1987.

d. *Applicant:* Town of Cedaredge.

e. *Name of Project:* Cedaredge.

f. *Location:* On the Cedaredge spring led municipal/water system in Delta County, Colorado.

g. *Filed Pursuant to:* Energy Security Act of 1980, section 408, 16 U.S.C., §§ 2705 and 2008.

h. *Applicant Contact:* Mr. Ed Marah, Mayor, Town of Cedaredge, P.O. Box 398, Cedaredge, CO 81413 (303) 856–3123.

i. *FERC Contact:* Mr. Hector M. Perez, (202) 376–1669.

j. *Comment Date:* March 12, 1988.

k. *Description of Project:* The proposed project would consist of a powerhouse with a 95-kW turbine-

generator unit at elevation 8,190-feet on the municipal raw water system. The applicant estimates an average annual generation of 493,070 kWh to be sold to the Delta Montrose Electric Association.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

18 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10523-000.

c. *Date Filed:* December 10, 1987.

d. *Applicant:* Baldwin Hydro Corporation.

e. *Name of Project:* Silver Creek Hydro Power Project.

f. *Location:* In Nez Perce National Forest, on Silver Creek, a tributary to the South Fork Clearwater River, in Idaho County, Idaho. Township 29N and Range 5E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. C. C. Warnick, 3197 Lundquist Lane, Moscow, ID 83843 (208) 882-5619.

i. *FERC Contact:* Mr. Thomas A. Dean, (202) 376-9275.

j. *Comment Date:* April 4, 1988.

k. *Description of Project:* The proposed project would consist of: (1) A 10-foot-high diversion structure with a diversion pool elevation of 3,520 feet msl; (2) a 5,400-foot-long, 20, inch-diameter penstock leading to; (3) a powerhouse containing two generating units with an installed capacity of 550 kW operating at 710 feet of hydraulic head; (4) a tailrace; and (5) a 100-foot-long, 34-kV transmission line.

The applicant estimates the average annual energy production to be 3,100 MWh. The approximate cost of the studies under the permit would be $90,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

19 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10524-000.

c. *Date Filed:* December 10, 1987.

d. *Applicant:* North Coast Development Co. Inc.

e. *Name of Project:* Power Creek.

f. *Location:* On Power Creek in sections 5, 8, 4, 9, and 34 Copper River Meridian near Cordova, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Howard T. Harstad, North Coast Development Co. Inc., P.O. Box 98787, Des Moines, Wa, 98198 (206) 243-8604.

i. *FERC Contact:* Ms. Julie Bernt, (202) 376-9812.

j. *Comment Date:* April 4, 1988.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure at water surface elevation 430 feet at a 60 acre pond on a side branch of Power Creek; (2) a 7,600-foot-long pressure tunnel; (3) three 50-foot-long, 30-inch-diameter penstocks; (4) a powerhouse containing three generating units each with a rated capacity of 2,000 kW; and (5) a 7-mile-long transmission line. Applicant estimates the average annual energy production to be 30 GWh and the cost of the work to be performed under the preliminary permit to be $225,000.

l. *Purpose of Project:* The power produced would be sold to the local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications, must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the rules of Practice and

Procedure, 18 C.F.R. 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. William C. Wakefield II, Acting Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 825*l*(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments withing the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purpose set forth in section 408 of the energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and ocnditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it wil be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 4, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2707 Filed 2-8-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-159-000 et al.]

Tennessee Gas Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP88-159-000]

February 2, 1988

Take notice that on January 7, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-159-000 a request, pursuant to § 284.223 of the Commission's Regulations, for authorization to provide a transportation service for Bethlehem Steel Corporation (Bethlehem), an end-user, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7(c) of the National Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas for Bethlehem from various receipt points in Texas, Louisiana, Mississippi, New Jersey, and Kentucky to various delivery points located at interconnections with Columbia Gas Transmission Corporation, Consolidated Gas Transmission Corporation, and Natural Fuel Gas Supply Corporation, the downstream transporters.

Tennessee further states that the peak day quantities would be 80,000 dekatherms, the average daily quantities would be 46 dekatherms, and that the annual quantities would be 16,790 dekatherms. Tennessee notes that service under § 284.223(a) commenced December 4, 1987, as reported in Docket No. ST88-1301 (filed December 15, 1987).

Comment date: March 18, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP88-187-000]

February 2, 1988

Take notice that on January 15, 1988, Algonquin Gas Transmission Company ("Algonquin"), a Delaware corporation with its principal place of business in Boston, Massachusetts, filed, pursuant to section 7(c) of the Natural Gas Act and the rules and regulations of the Federal Energy Regulatory Commission ("Commission"). an application for a certificate of public convenience and necessity authorizing Algonquin to provide a firm transportation service for Northeast Energy Associates, a limited partnership acting through its managing general partner, Intercontinental Energy Corporation ("Northeast"). All as, more fully described in the application which is on file with the Commission and open to public inspection.

It is stated that such service will be performed under Rate Schedule X-35 to be contained in Algonquin's FERC Gas Tariff Original Volume Number 2. To effectuate the firm transportation service, Algonquin proposes in a concurrent application (CP88-192-000) to construct and operate certain pipeline and appurtenant facilities, as more fully described therein. Also contained in CP88-192-000 is a request for the same service proposed in CP88-187-000, it is stated.

Algonquin states that the proposed service will involve receipt, firm transportation and delivery of up to 59,777 MMBtu of natural gas per day for Northeast. Algonquin explains that the *pro forma* Gas Transportation Agreement filed in the application also provides for interruptible transportation of non-specified quantities in excess of the 59,777 MMBtu. The proposed transportation service will be available for a primary term of twenty-five years, starting upon the commencement date which is comtemplated to be November 1, 1989, it is stated. Northeast also has an option to renew the contract for an eight (8) year term after expiration of the primary term, it is further stated. Algonquin indicates that the gas would be received from PennEast Gas Services Company, subsidiary of Texas Eastern Gateway, Inc. and CNG Transmission Corporation, at an existing interconnection located in Lambertville, New Jersey, transported through the Algonquin system and redelivered at a new point of delivery between Algonquin and Northeast located in Bellingham, Massachusetts.

Algonguin proposes to charge Northeast a monthly Demand Charge of $12.008 per MMBtu of Contract Demand, the derivation of which it states is set forth in Exhibit P to the facilities application being filed concurrently in CP88-192-000. Algonquin states that Northeast, through its payment of the demand charge will be responsible for the recovery of costs for the new facilities necessary to perform the proposed service and thus the new service will have no impact on Algonquin's current customers.

It is noted that Algonquin filed this application within the time-frame of the open season announced by the Commission in Docket No. CP87-451-000, concerning projects to supply natural gas to the Northeast U.S.

Comment date: February 23, 1988, in accordance with Standard Paragraph F at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP88-205-000]

Take notice that on January 21, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74102, filed in Docket No. CP88-205-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment in place of the 765 horsepower Lyons transmission compressor station located in Rice County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, WNG seeks authority to abandon in place one 85 horsepower and four 170 horsepower Cooper-Bessemer Type 80 compressor units and appurtenant facilities installed at Lyons station in 1941 and 1948. WNG states that the Lyons station was originally constructed to deliver gas from the Hugoton-Kansas City 26-inch pipeline to the Lyons, Kansas to Superior, Nebraska market areas. WNG also states that in 1961, a 2400 horsepower compressor unit was installed at Lyons station to be used in filling the Alden storage field. WNG states that the Alden storage field now serves the purpose for which these units were originally installed, to supply the Lyons and Superior market areas.

WNG states that due to the existence and operation of the Alden storage field, the transmission compressor units at the Lyons station are no longer required and the proposed abandonment would not significantly affect WNG's financial or gas supply situation.

WNG states that the cost of the proposed abandonment is approximately $9,350 with an estimated salvage value of $2,500.

Comment date: February 24 1988, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP88-209-000]

February 2, 1988.

Take notice that on January 25, 1988, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP88-209-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide transportation on behalf of North Atlantic Utilities, Inc. (North Atlantic), under Columbia's blanket certificate issued in Docket No. CP86-240-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to transport, on an interruptible basis, up to 16,200 MMBtu equivalent of natural gas per day for North Atlantic under its Rate Schedule and pursuant to the terms of a November 25, 1987, transportation agreement. It is stated that the projected average day and annual quantities which will be transported are 5,000 MMBtu and 1,825,000 MMBtu, respectively.

Columbia states that part of the gas to be transported would be delivered to Columbia directly from Applachian producers. Columbia also states that part of the gas to be transported would be delivered to Columbia by Texas Gas Transmission Corporation pursuant to the provisions of its Rate Schedule TSC and Commission authorization granted in Docket No. CP86-521.

Columbia states that it will deliver the gas for North Atlantic's account to Transcontinental Gas Pipe Line Corporation (Transco) which will transport the gas pursuant to the self-implementing provisions of § 284.102 of the Commission's Regulations, the notices of which are docketed at Docket Nos. ST87-4316 and ST88-1355. It is stated that Transco will redeliver the gas to Long Island Lighting Company for the ultimate delivery to various end-users in New York and to Public Service Electric & Gas for ultimate delivery to various end-users in New Jersey.

Columbia further states that the term of for transportation service would be from the date of initial transportation and would remain in full force and effect from month-to-month thereafter unless terminated by either party upon 30 days prior written notice.

Comment date: March, 18, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Columbia Gas Transmission Corporation

[Docket No. CP88-202-000]

February 3, 1988.

Take notice that on January 20, 1988, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP88-202-000 an application purusant to setion 7(b) of the Natural Gas Act for permission and approval authorizing the abandonment of certain natural gas facilities, services, and interests in certain producing properties, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to abandon by sale to Arlington Exploration Company (Arlington) approximately 7.4 miles of 8-inch pipeline, 0.3 mile of two well lines, required rights-of-way, the Thomas Corners Compressor Station (consisting of one 80 HP leased unit) and certain interests in and to leasehold gas, leasehold interest, including a one-third working interest in two wells, contract rights, wells surface equipment, and abandonment of Columbia's sales service to National Fuel Gas Supply Corporation within the Thomas Corner Field, Steuben County New York.

It is stated that the Thomas Corners Field consists of two wells and approximately 590 leased acres. Columbia states that Arlington has indicated that it is interested in potential storage capabilites of this nearly depleted production field. It is further stated that Arlington has requested, and Columbia has agreed, to sell its existing producing properties, pipelines, and compressor facilities located within the field and certain interconnecting pipeline facilities from the field to Columbia's existing 12-inch pipeline located in Steuben County, New York. Columbia states that it owns a one-third (⅓) working interest in the production from both wells and Arlington currently owns the remaining two-thirds (⅔) interest. Columbia estimates the total remaining gas in place for the Thomas Corners Field to be approximately 565,000 Mcf.

Columbia states that the proposed abandonment will not result in any change in the service provided by Columbia to its existing customers. It is further stated that as a result of the abandonment, Columbia will achieve a $48,500 reduction in its operating expenses. Columbia states that Arlington has indicated that it will make every reasonable effort to continue operations until such operation is no longer commercially viable or production is terminated to permit conversion of the Thomas Corners Field to storage service, whichever occurs first. It is stated that Arlington has agreed to purchase the applicant's interest in the Thomas Corners Field and related facilities for $675,000.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Columbia Gas Transmission Corporation

[Docket No. CP88-184-000]

February 3, 1988.

Take notice that on January 15, 1988, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP88-184-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 4.7 miles of 20-inch pipeline in Wetzel and Monongalia Counties, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gas proposes to replace 4.7 miles of bare 16-inch pipeline that is 41 years old. This proposal will enable Columbia Gas to maintain safe and reliable operation and service to Columbia Gas' existing wholesale customers at presently authorized levels.

It is noted that the proposed construction project has an estimated cost of $1,652,000, which funds would be generated from internal sources.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

7. Eastern American States Transmission Company

[Docket No. CP88-193-000]

February 3, 1988.

Take notice that on January 15, 1988, Eastern American States Transmission Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed purusant to section 7(c) of the Natural Gas Act, as amended, and § 157.6 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, an application for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas pipeline and related facilities necessary to tansport natural gas for others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a newly formed interstate pipeline, owned by a partnership between ANR Atlantic Pipeline Company, a subsidiary of ANR Pipeline Company (ANR), and ANR Ocean Pipeline Company, a subsidiary of American Natural Resources Company.

Applicant states that this application has been filed in response to the Commission's "Notice Inviting Applications To Provide New Gas Service To The Northeast U.S." issued on July 24, 1987, and "Order Granting Rehearing" issued on September 25, 1987, in Docket No. CP87-451-000, which declared an "Open Season" for filing new applications to provide natural gas service to the Northeastern United States.

Applicant proposes to construct a pipeline system capable of delivering up to 500 MMcf per day from both United States and Canadian sources. Applicant's system would consist of two major segments: (1) 285 miles of 30-inch O.D. pipeline extending from an interconnection with ANR's Defiance Compressor Station, located in Defiance County, Ohio, to a terminal point in Westmoreland County, Pennsylvania, and two 12,000 horsepower compressor stations; and (2) 76 miles of 24-inch O.D. pipeline from Richmond County, Staten Island, New York to Suffolk County, Long Island, New York.

As is more fully explained in the filing, Applicant's facilities would be able to interconnect with the existing facilities of Texas Eastern Transmission Corporation (TETCO) in the

Westmoreland, Pennsylvania, area. From this point, Applicant avers, the natural gas could be transported by TETCO to a point of interconnection with Algonquin Gas Transmission Company (Algonquin) near Lambertville, New Jersey, with Algonquin then transporting a portion of the gas for ultimate consumption in Connecticut, Rhode Island and Massachusetts. The remainder of the gas, Applicant continues, could be transported to New Jersey and New York through facilities of TETCO and Applicant. Applicant states that while some information specific to transportation by TETCO and Algonquin has been provided in the instant filing, the use of any of a number of existing systems or combinations thereof could be used to transport natural gas to the Northeast in conjunction with Applicant's proposed system. However, Applicant does not state that any filing to assist in its proposed transportation of natural gas has been, or will in the future be made by TETCO, Algonquin or any other pipeline company.

Applicant states that the proposed facilities are estimated to cost $288 million and that the facilities have been designed to deliver up to 500 MMcf per day on a firm basis. Applicant states that it also proposes to provide interruptible transportation service to the extent capacity is available. Applicant explains that the facility costs will be capitalized with 75% debt and 25% equity.

Applicant proposes to utilize the pipeline systems of Great Lakes Transmission Company and ANR for the transportation of natural gas from sources in the United States and Canada to Defiance, Ohio. Applicant explains that transportation contracts would be entered into with willing shippers under individual section 7 arrangements or under the self-implementing provisions of section 311 of the Natural Gas Policy Act of 1978, as may be appropriate. Applicant reports that the proposed rates included in Exhibit P of the application have been designed on a modified fixed variable basis, and that maximum and minimum rates are provided for under both the firm and interruptible rate schedules which reflect the length of haul.

In its description of filed Exhibit F-IV, Statement Concerning the Requirements of the National Environmental Policy Act of 1969, Applicant states that it would supplement at some future time its environmental report to cover: (1) Changes in the location and size of compressor units in Ohio; (2) the 68 mile pipeline segment from Lawrence County, Pennsylvania to Westmoreland County, Pennsylvania; and (3) the 76 mile pipeline segment from Richmond County, Staten Island, New York to Suffolk County, Long Island New York. This statement indicates that the instant filing does not contain a complete environmental assessment report on the Applicant's proposed pipeline construction.

It is noted that Applicant filed this application within the time-frame of the open season announced by the Commission in Docket No. CP87-451-000, concerning projects to supply natural gas to the Northeast U.S.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

8. Iroquois Gas Transmission System

[Docket No. CP86-523-003]

February 3, 1988

Take notice that on January 15, 1988, Iroquois Gas Transmission System (Iroquois), Two Enterprise Drive, Shelton, Connecticut 06484, filed in Docket No. CP86-523-003 an amendment to its pending application filed in Docket No. CP86-523-000 pursuant to section 7 of the Natural Gas Act and Subpart E of Part 157 of the Commission's Regulations for an optional certificate of public convenience and necessity, so as to reflect the elimination of the Farmington lateral and the restatement of its cost estimates and related exhibits on a current basis, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Iroquois states that the amendment (referred to as the "Third Amendment") is occasioned principally by the elimination of the Farmington lateral and the restatement of its cost estimates and related exhibits on a current basis. It is stated that Iroquois originally proposed a lateral of 41.6 miles of 12-inch diameter pipe from a point near Washington, Connecticut to a point near Farmington, Connecticut, to facilitate deliveries to shippers in Connecticut. Iroquois states that Algonquin Gas Transmission Co., Inc. ("Algonquin") has agreed to provide delivery service from the Iroquois main line to the three Connecticut shippers in the event that Iroquois' application is approved by the Commission. Iroquois explains that Algonquin's agreement obviates the need for the Farmington lateral. It is stated that the Third Amendment reflects the elimination of the Farmington lateral thus reducing Iroquois' projected capital costs by approximately $28 million to $384,087,000.

As a result of the elimination of the Farmington lateral, Iroquois now requests authority to establish delivery points to the following companies at the respective points of interconnection:

Company	Point of interconnection
TransCanada Pipelines Ltd.	MP 0.0 Waddington, NY
St. Lawrence Gas Co.	MP 7.8 Lisbon, NY
Consolidated Gas Supply Corp.	MP 158.0 Canajoharie, NY
Tennessee Gas Pipeline Co.	MP 181.0 Wright, NY
	MP 317.8 Stratford, CT
Central Hudson Gas & Electric Corp.	MP 259.2 Pleasant Valley, NY
Algonquin Gas Transmission Co.	MP 295.1 Brookfield, CT
The Connecticut Light & Power Co.	MP 277.0 New Milford, CT
	MP 313.6 Huntington, CT
Southern Connecticut Gas Co.	MP 319.4 Stratford, CT (Chapel Street)
	MP 320.9 Milford, CT
Long Island Lighting Co.	MP 357.2 South Commack, NY

Iroquois states that at present it proposes to construct interconnect facilities for the delivery points at Brookfield, New Milford, Huntington, Stratford (Chapel Street), and Milford in Connecticut and at Canajoharie, Pleasant Valley, and South Commack in New York. It is stated that Iroquois would request appropriate authority to construct and operate the remaining delivery points as required.

Iroquois states that the Third Amendment includes revised Exhibits K, L, N, and P to reflect the elimination of the Farmington lateral and as a result of a general review and update of its cost estimates. Iroquois further states that it has reduced its proposed rate of return on equity from 15.75 percent to 15.50 percent as a result of changing economic conditions.

It is noted that Iroquois, in response to the open season announced by the Commission in Docket No. CP87-451-000, filed a Supplement to its Third Amendment. That supplement, which has been docketed and noticed separately as Docket No. CP88-198-000, is an application for a certificate of public convenience and necessity filed under section 7(c) of the Commission's regulations. Iroquois states that the section 7(c) application is substantially identical to its optional application, with the exception of the respective rate structures and potential applicability of comparative hearings.

Comment date: February 24, 1988, in accordance with the first subparagraph

of Standard Paragraph F at the end of this notice.

9. Greater Northeast Pipeline Corp.

[Docket No. CP88-191-000]

February 3, 1988.

Take notice that on January 15, 1988, Greater Northeast Pipeline Corp. (Greater Northeast), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP88-191-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Greater Northeast to (1) construct and operate a new pipeline system with a capacity of 452,000 MMBtu of natural gas per day; (2) perform open access, non-discriminatory transportation pursuant to Subpart G of Part 284 of the Commission's Regulations; (3) render a firm transportation service of up to 452,000 MMBtu per day to New England Power Company and to the shippers proposed to be served by Iroquois Gas Transmission System (Iroquois) in the application pending in Docket No. CP86-523, *et al.*; and (4) conduct certain construction and operational activities pursuant to Subpart F of Part 157 of the Commission's Regulations, all as for more fully set for the in the application which is on file with the Commission and open to public inspection.

In its application, Greater Northeast proposes to render firm transportation services for the eleven local distribution companies in New Jersey, New York, and Connecticut proposed to be served by Iroquois and an electric generation end-use market in Massachusetts (collectively, the Shippers). The proposed customers, along with their respective transportation volumes, are shown in the following table.

Customer	Transportation volume
Iroquois Shippers	
The Brooklyn Union Gas Co	70,000
The Connecticut Light & Power Co	50,000
Connecticut Natural Gas Corp	50,000
New Jersey Natural Gas Co	40,000
The Southern Connecticut Gas Co	35,000
Long Island Lighting Co	35,000
Public Service Electric & Gas Co	20,000
Consolidated Edison Co. of New York	20,000
New York State Electric & Gas Corp	17,000
Central Hudson Gas & Electric Corp	10,000
Elizabethtown Gas Co	5,000
Total Iroquois Volume	352,000
New England Power Co	100,000
Total Proposed Transportation	452,000

It is stated that, to render the proposed transportation, Greater Northeast proposes to construct and operate: (1) 274 miles of 30-inch mainline from a point of interconnection with the facilities of the TransCanada Pipelines system in the vicinity of the international border near Waddington, New York through New York and Massachusetts to a point of interconnection with Algonquin Gas Transmission Company (Algonquin) located near Deerfield. Greater Northeast estimates the cost of the completed project to be $321,683,000. It is stated that Greater Northeast would be willing to construct emergency taps to local distribution companies located along its system that require such taps and would be willing to provide additional service to others. Greater Northeast states that the planned in service date would be November 1, 1989, and that firm transportation service for the Shippers would be available for a primary term of twenty years.

Greater Northeast proposes to provide firm and interruptible transportation service on an open access, non-discriminatory basis, to the extent capacity is available.

Greater Northeast proposes to render firm service pursuant to a proposed Rate Schedule FT-1, which would recover Greater Northeast's facility costs through demand and commodity charges derived through the modified fixed variable (MFV) form of rate design. Greater Northeast proposes to render interruptible transportation service, to the extent capacity is available, pursuant to proposed Rate Schedule IT-1. It is stated that Rate Schedule IT-1 provides for maximum and minimum rates and that the commodity component of the MFV designed rates would be the maximum collected for quantities transported within the maximum daily transportation quantities (MDTQ). Greater Northeast states that overrun charges would be applicable to quantities transported in excess of the MDTQ. Greater Northeast explains that the maximum authorized overrun charge consists of a 100 percent load factor rate based on Greater Northeast's total cost of service and that the minimum overrun rate consists of the maximum commodity charge contained in Greater Northeast's proposed Rate Schedule FT-1.

It is noted that Greater Northeast filed this application in response to, and within the time-frame of, the open season announced by the Commission in Docket No. CP87-451-000, concerning projects to supply natural gas to the Northeast U.S.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

10. Iroquois Gas Transmission System

[Docket No. CP88-198-000]

February 3, 1988.

Take notice that on January 19, 1988, [1] Iroquois Gas Transmission System (Iroquois), Two Enterprise Drive, Shelton, Connecticut 06484, filed in Docket No. CP88-198-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate a new pipeline system and to transport natural gas through that pipeline system for customers in New Jersey, New York, and New England. Iroquois also requests a blanket transportation certificate of public convenience and necessity under Subpart G of Part 284 of the Commission's Regulations and a blanket facilities certificate of public convenience and necessity under Subpart F of Part 157 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Iroquois filed, in Docket No. CP86-523-000 as amended in Docket Nos. CP86-523-001, CP86-523-002, and CP86-523-003, an application for an optional certificate to construct and operate a new pipeline with a capacity of 353,000 Mcf of natural gas per day from a point on the international border near Iroquois, Ontario, through eastern New York and western Connecticut, and across Long Island Sound to a point near South Commack, Long Island, New York. In that application, Iroquois proposed to provide firm transportation service of up to 352,000 Mcf per day for eleven Northeast distributors. On January 15, 1988, Iroquois filed an amendment (referred to as the "Third Amendment") to its application in Docket No. CP86-523-003. As a Supplement to its Third Amendment, Iroquois filed a section 7(c) application that is substantially identical to its optional application in Docket No. CP86-523-003. That Supplement is being docketed and noticed as a separate application in Docket No. CP88-198-000.

Iroquois states that, in response to the open season announced by the Commission in Docket No. CP87-451-000, this application is filed to provide an alternative to the optional application in Docket No. CP86-523-003 in the event that the Commission issues

[1] The application was tendered for filing January 15, 1988; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until January 19, 1988. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

additional guidelines for optional certification and Iroquois determines that it does not wish to pursue an optional certificate, and to ensure consideration of the project in any "open season" procedures undertaken prior to Commission action on the Iroquois optional application. Iroquois asserts that this application expressly does not supersede Iroquois' optional application which Iroquois continues to prosecute as its preferred method for certification. Iroquois states that the section 7(c) application is substantially identical to its optional application, with the exception of the respective rate structures and potential applicability of comparative hearings.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Iroguois to appear or be represented at the hearing. All persons who have filed in Docket No. CP86-523, *et al.* need not file again.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

11. Northern Natural Gas Company a Division of Enron Corporation

[Docket No. CP88-199-000]

February 3, 1988.

Take notice that on January 19, 1988, Northern Natural Gas Company, a Division of Enron Corporation, (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-199-000, an application pursuant to section 7(b) of the Natural Gas Act to abandon and remove one 517 horsepower (hp) compressor unit (Unit No. 1) located in Morton County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that its Unit No. 1, a 517 hp compressor unit at the Morton County, No. 1 Station, was damaged mechanically in early 1986, and rendered inoperable. Repair of the damaged unit was estimated at $40,000.

Northern also states that due to declining volume production, Unit No. 1 is no longer needed at the Morton County, Station. Northern has determined that the present and future production can be gathered and compressed by the other eight remaining compressor units at the Morton County Station.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

12. PennEast Gas Services Company, CNG Transmission Corporation and Texas Eastern Transmission Corporation

[Docket No. CP88-195-000

February 3, 1988.

Take notice that on January 15, 1988, PennEast Gas Services Company ("PennEast "), a general partnership, CNG Transmission Corporation ("CNG Transmission"), 445 West Main Street, Clarksburg, WV 26301, and Texas Eastern Transmission Corporation ("Texas Eastern"), P.O. Box 2521, Houston, TX 77252, collectively referred to as ("Applicants"), filed a joint application in abbreviated form for Certificates of Public Convenience and Necessity, pursuant to section 7(c) of the Natural Gas Act. Applicants seek authorization for two industrial cogeneration developers with facilities in New York, New Jersey and New England under a new Rate Schedule T-4, and to construct and operate related pipeline, compression and metering facilities to be known as the "Niagara System"; (2) CNG Transmissison to render related gas compression and metering services for PennEast in support of the Niagara System; (3) Texas Eastern to render related gas compression and metering services for PennEast in support of the Niagara System; (4) for a Blanket Certificate of Public Convenience and Necessity pursuant to 18 CFR 284.221 authorizing open-access, non-discriminatory transportation of natural gas. The application is currently on file with the Federal Energy Regulatory Commission ("Commission") and is available for public inspection.

In its application, PennEast seeks certificate authorization to render long-term firm transportation services for two industrial cogeneration projects with natural gas purchased in the Appalachian Basin and imported from Canada, up to the nominated daily delivery quantities. PennEast proposes to deliver to Intercontinental Energy Corporation ("IEC") up to a total Maximum Contract Demand Quantity ("MCDQ") of 60,716 dth/day from Niagara Falls Receipt Point and 10,000 dth/day from Leidy Receipt Point. PennEast also proposes to deliver to Tellus Cogeneration Company ("Tellus") up to a total MCDQ of 38,555 dth/day from Niagara Falls Receipt Point.

PennEast proposes that transportation to these customers be rendered under the terms and conditions of Rate Schedule T-4. PennEast also proposes that the rates shown in Exhibit P of its application be accepted as initial rates for service under T-4, as of November 1, 1989. PennEast states that firm and interruptible transportation under the Blanket Certificate would be provided pursuant to Rate Schedules T-4 and T-2, respectively.

It is stated that the Canadian gas supplied for PennEast would be transported through the TransCanada Pipeline Ltd. System ("TransCanada") to the point of importation, Niagara Falls, New York. At that point, Tennessee Gas Pipeline Company ("Tennessee") it is stated, would transport the gas for PennEast on its Niagara Spur and deliver the gas to PennEast near Marilla, New York. It is indicated that if cumulative requests for firm service on the Niagara Spur result in a facilities design which loops Tennessee's existing Niagara Spur, Tennessee and PennEast would enter into a joint venture to construct and operate the proposed loop line to make 100,000 dth/day of capacity available to PennEast. It is further indicated that this firm capacity would be provided by Tennessee pursuant to a letter agreement between Tennessee and Canadian Gateway Pipeline System ("Canadian Gateway"). Canadian Gateway has expressed its intent to assign its rights to PennEast.

PennEast proposes to receive the Appalachian gas supplies to be transported hereunder from CNG Transmission at the existing interconnection between the facilities of CNG Transmission and Texas Eastern, at Texas Eastern's Measuring Station 931, proposed herein to be expanded ("Leidy Receipt Point").

PennEast states that it would deliver portions of the transportation quantities directly to the cogeneration plants managed by Tellus on Staten Island, New York, near Texas Eastern's Measuring Station 058 and to IEC at Sayreville, New Jersey, near Texas Eastern M&R 449. It is stated that PennEast would deliver the balance of IEC's and Tellus' transportation quantities at an existing interconnection between Texas Eastern and Alqonquin Gas Transmission systems at Lambertville, New Jersey.

PennEast is seeking construction and operation authorization in its application for its Niagara System, which would consist of the proposed incremental pipeline, compression and metering facilities. PennEast states that the system would be operated in conjunction with existing facilities owned and operated by Texas Eastern and CNG Transmission to render the proposed transportation services from the proposed receipt points to the proposed New York delivery Points. PennEast proposes to construct and operate the following facilities:

—27 miles of 24-inch pipeline between CNG Transmission's Ellisburg and Woodhull Storage Pools;
—4,000 hp, 2,700 hp, 1,350 hp, and 3,200 hp compression at CNG Transmission's Greenlick Compressor Station, State Line Junction, Marilla measuring and regulating station, and Line No. PL-1 near Doylesburg, Pennsylvania, respectively;
—metering and regulating facilities at existing interconnection between CNG Transmission and Texas Eastern at Leidy Storage Pool;
—5.31 miles of 24-inch pipeline and 11.25 miles of 36-inch pipeline looping Texas Eastern's Leidy pipeline on suction side and discharge side, respectively, of PennEast's proposed Centre Hall compressor station;
—11 miles and 0.36 miles of 36-inch pipeline replacing a like quantity of Texas Eastern's 20-inch pipeline at the discharge of Station 25 and Texas Eastern's Hanover Lateral in New Jersey, respectively;
—expand capacity of Texas Eastern's measuring and regulating stations No. 087, Perulack and Chambersburg compressor station.

PennEast states that its proposed facilities, in conjunction with existing Texas Eastern and CNG Transmission facilities, would be sufficient to render the proposed services. No capacity on either Texas Eastern's or CNG Transmission's existing facilities would be committed to this project, nor would anyone other than PennEast or its customers bear any costs associated with the proposed facilities, it is stated. The total cost of the proposed facilities is estimated to be $76,686,000.

PennEast states that it would own the proposed facilities, which would be constructed and operated pursuant to Compression Metering agreements between PennEast, CNG Transmission, and Texas Eastern. The agreements would provide that where the proposed PennEast facilities parallel or are associated with the existing facilities of CNG Transmission or Texas Eastern, the partner who owns the associated existing facilities would be responsible for compression and metering services at the PennEast facilities, it is stated. CNG Transmission and Texas Eastern have requested authorization to render such services and to charge PennEast a cost-based rate for the incremental operation and maintenance expenses thus incurred. They also request that the rates be accepted as initial rates for such services.

It is noted that Applicants filed this application within the time-frame of the open season announced by the Commission in Docket No. CP87-451-000, concerning projects to supply natural gas to the Northeast U.S.

Coment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

13. Rocky Mountain Natural Gas Company

[Docket No. CP88-204-000]

February 3, 1988.

Take notice that on January 21, 1988, Rocky Mountain Natural Gas Company (Rocky Mountain), 12055 West Second Place, Lakewood, Colorado 80228, filed in Docket No. CP88-204-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.224 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the sale, transportation, or assignment of natural gas in interstate commerce as if Rocky Mountain were an interstate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Rocky Mountain states that it is a Hinshaw pipeline operating in the State of Colorado and that it is subject to the regulatory jurisdiction of the Colorado Public Utility Commission. It is stated that during the twelve month period ending December 31, 1986, Rocky Mountain received 3,714,783 Mcf of natural gas from all sources, all of which was received within Colorado. Rocky Mountain explains that 1,920,692 Mcf of the gas received is exempt from the Commission's jurisdiction under the Natural Gas Act.

Rocky Mountain states that it has several pending requests for transportation service. Therefore, Rocky Mountain requests a two year blanket certificate of public convenience and necessity authorizing Rocky Mountain to engage in the sale, transportation, or assignment of natural gas. Rocky Mountain explains that it is electing to base its rates upon the methodology used in designing rates to recover the properly allocated cost of transporting and delivering gas included in its currently effective firm sales rate schedule for city-gate service on file with the Colorado Public Utility Commission.

Rocky Mountain states that it would comply with the conditions set forth in subparagraph (e) of § 284.224 of the Commission's Regulations.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

14. Valley Gas Transmission, Inc.

[Docket No. CP88-170-000]

February 3, 1988.

Take notice that on January 15, 1988, Valley Gas Transmission, Inc. (Valley Gas), P.O. Box 795099, San Antonio, Texas 78279-5099, filed in Docket No. CP88-170-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service and facilities constituting its Live Oak system in Jim Wells and Live Oak Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Valley Gas states that the Live Oak system is a 69.7-mile gathering facility that has been utilized to provide sales and transportation services to United Gas Pipe Line Company (United). Valley Gas states further that it has recently entered into agreements with United to terminate all such services.

It is said that upon Commission approval of the abandonment, Valley Gas would sell the Live Oak system to its intrastate pipeline affiliate, Gulf Energy Pipeline Company.

Comment date: February 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the

Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2708 Filed 2-8-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-27-000]

United Gas Pipe Line Co.; Technical Conference

February 2, 1988.

Pursuant to the Commission order which issued on December 31, 1987, a technical conference will be held to resolve the issues raised in the above-captioned proceeding and specified in the December 31, 1987 order. Copies of the December 31, 1987 order are available from the Federal Energy Regulatory Commission. The conference will be held on Tuesday, February 16, 1988 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2575 Filed 2-8-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59253; FRL-3326-1]

Certain Chemical; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA), TME-88-6. The test marketing conditions are described below:

EFFECTIVE DATE: February 2, 1988.

FOR FURTHER INFORMATION CONTACT: Keith Cronin, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, RM. E-611, 401 M St. SW., Washington, DC 20460, (202-382-3769).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-88-6. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently, notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury.

The following additional restrictions apply to TME-88-6. A bill of lading accompanying each shipment must state that the uses of the substance are restricted to those approved in the TME. In addition, the Company shall maintain the following records until 5 years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of dates of the shipments to the customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-88-6

Date of Receipt: December 21, 1987.

Close of Review Period: February 3, 1988. The extended comment period will close February 24, 1988.

Applicant: Confidential.

Chemical: (G) Polyurethane.

Use: (G) An industrial coating.

Production Volume: 79,250 kg/year.

Number of Customers: One domestic (one foreign).

Worker Exposure: During use, exposure would normally be limited to about 2 hours, for 8-12 workers per shift, 3 shifts per day, 250 days per year, at each site. These workers will wear rubber gloves, rubber aprons, and safety glasses.

Test Marketing Period: 12 months.

Commenting on: Date of first manufacture.

Risk assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test market activities will not present any unreasonable risk of injury to health or the environment.

Dated: February 2, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-2694 Filed 2-8-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

January 29, 1988.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

Please note: FCC has requested expedited review of this item by February 19, 1988. Therefore, comments sent to OMB should arrive prior to that date.

OMB No.: 3060-0113

Title: Broadcast Equal Employment Opportunity Program Report

Form No: FCC 396

Action: Revision

Respondents: Business, including small business

Frequency of Response: Every 5 years for television, every 7 years for radio

Estimated Annual Burden: 1,252 Responses; 3,756 Hours

Needs and Uses: Filing is required by all licensees of AM, FM, TV, Low Power TV, and international stations with five or more full-time employees when applying for renewal. The report describes the station's program for recruitment, hiring, and promotion. The data is used to review and assess the licensee's policies and practices, and compliance with the Commission's fair employment requirements.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-2664 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

February 1, 1987.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0049

Title: Restricted Radiotelephone Operator Permit Application and Temporary Restricted Radiotelephone Operator Permit

Form Number: FCC 753

Action: Extension

Respondents: Individuals or households

Frequency of Response: On occasion

Estimated Annual Burden: 142,000 Responses; 14,200 Hours

Needs and Uses: The FCC rules require station operators to hold a valid radio license. The data will be used to indentify the individual to whom the license is issued and to confirm that the individual possesses the required qualifications for the license.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-2665 Filed 2-8-88; 8:45 am]

BILLING CODE 01--M

[CC Docket No. 88-8; File Nos. 10891-CM-P-80 and 50066-CM-P-81]

Applications; Broadcast Data Corp. and Rasnow MDS Co.; for Construction Permits; Multipoint Distribution Service for a New Station on Channel 1 at Thousand Oaks, CA

Memorandum Opinion and Order

Adopted: January 19, 1988.

Released: February 3, 1988.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Thousand Oaks, California. The applications are therefore mutually exclusive and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applications are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, *It Is Hereby Ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications *Are Designated For Hearing,* in a *Consolidated Proceeding,* at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered.[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. *It Is Further Ordered,* That Broadcast Data Corp., Rasnow MDS Company and Chief of the Common Carrier Bureau, *Are Made Parties* to this proceeding.

5. *It Is Further Ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain,* 77 FCC 2d 20 (1980).

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 88-2666 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-7]

Applications for Consolidated Hearing; General Broadcasting Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. General Broadcasting Corp., Tomah, Wisconsin.	BPH-861114MB	88-7
B. Harold R. Cram, Jr. tr/as Greater Tomah Area Broadcasting, Tomah, Wisconsin.	BPH-861202MC	
C. Jamie Lee Westpfahl, Tomah, Wisconsin.	BPH-861203MB	
D. Midwest Broadcast Associates, Ltd., Tomah, Wisconsin.	BPH-861203ME	
E. Clayton Hannes d/b/a Lancer Broadcasting Co., Tomah, Wisconsin.	BPH-861204MA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading	Applicants
1. Air Hazard	B.
2. Environmental Impact	E.
3. Comparative	A, B, C, D, E.
4. Ultimate	A, B, C, D, E.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037, (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-2667 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-5]

Applications for Consolidated Hearing; William Carlton Link and Thurman Louis Hardgrove, Sr.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
William Carlton Link, Lawrenceville, VA.	BPH-860505MP	88-5
Thurmon Louis Hardgrove, Sr., Lawrenceville, VA.	BPH-860507PO	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth below in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Appicants

1. Comparative, A,B
2. Ultimate, A,B

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-2668 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-6]

Applications for Consolidated Proceeding; Sheboygan County Broadcasting Co., Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Sheboygan County Broadcasting Co., Inc., Sturtevant, WI.	BPH-860812MB	88-6
B. Marjorie L. Kaplan d/b/a Mar-Kap Broadcasting, Sturtevant, WI.	BPH-860902MG	
C. R.A.D. Broadcasting Corp., Sturtevant, WI.	BPH-860805MB (Dismissed)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applicants have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 52 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Air Hazard, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

Washington, DC 20037, (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-2669 Filed 2-8-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-002647-004.

Title: Port of Long Beach Lease and License Agreement.

Parties:

City of Long Beach

C. Brewer Terminals, Inc. (Lessee)

Synopsis: The proposed agreement revises the description of the premises under the basic lease, and adjusts the amount of rent payable by Lessee for those premises.

Agreement No: 224-002647A.

Title: Port of Long Beach Pledge Agreement.

Parties:

City of Long Beach (City)

C. Brewer Terminals, Inc. (CBT)

Synopsis: The proposed agreement provides that CBT pledges to the City a certain negotiable Certificate of Deposit No. M-240039 issued by Mellon Bank (East), N.A. in the amount of $25,245.00 as guarantee of all its obligations under the basic Lease and License Agreement No. 224-002647.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 4, 1988.

[FR Doc. 88-2705 Filed 2-8-88; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-010459-002.

Title: Joint Feeder Vessel Cooperative Working Arrangement.

Parties:

American President Lines, Ltd. ("APL"); Sea-Land Service, Inc. ("Sea-Land").

Synopsis: The proposed amendment would extend the term of the agreement for a period of six months, through September 10, 1988. It would also provide for the possibility of vessel substitution by APL with Sea-Land retaining its present allotment of vessel space. The parties have requested a shortened review period.

Agreement No.: 203-011162-001.

Title: PANAM Discussion Agreement.

Parties:

U.S. Atlantic and Gulf Central American Freight Conference

Lykes Brothers Steamship Co. Inc.

Transnave Inc.

Ecuadorian Line, Inc.

Synopsis: The proposed amendment would add Naviera Consolidata, S.A. as a party to the agreement. The parties have requested a shortened review period.

Agreement No. : 232-011168.

Title: AMB/AML/KMR/TRN Reciprocal Space Charter and Sailing Agreement.

Parties:

Americas Container Line, Ltd.

Americas Container Line (Liberia) Corp.

Kommar Companhia Maritima S.A.

Transroll Navegacao S.A.

Synopsis: The proposed agreement would permit the parties to charter space from one another and to agree upon the number, size and types of the vessels to be operated and to agree upon the number of sailings, schedules and ports called in the trade between ports in the American Continent.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 4, 1988.

[FR Doc. 86-2706 Filed 2-8-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 3, 1987

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 3, 1987.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The economic information available at this meeting was reviewed against the backdrop of extraordinary developments in financial markets in the period since the previous Committee meeting on September 22. Share prices in the stock market were down sharply. Following a particularly large decline of stock prices in mid-October, interest rates fell steeply and increases that had occured during the first part of the intermeeting period subsequently were more than reversed on most types of debt obligations. Foreign exchange markets were relatively calm over most of the intermeeting period, but the dollar came under significant downward pressure late in the period.

In the third quarter economic activity had expanded at a fairly brisk pace. Total nonfarm payroll employment rose further in September, with the manufacturing sector continuing to record relatively sizable gains. The civilian unemployment rate edged down to 5.9 percent. Industrial production increased somewhat further in September following large gains in other recent months. Retail sales declined somewhat in September, but consumer spending, bolstered by a rise in auto sales, posted a large increase over the third quarter. Business capital spending was strong in the third quarter and forward indicators pointed to continuing gains. Housing starts were up in September but were little changed in the third quarter from their second-quarter average. The nominal U.S. merchandise trade deficit narrowed in August, but the July-August average remained above the second-quarter rate. The rise in consumer and producer prices was relatively moderate in recent months following more rapid increases earlier in the year.

[1] Copies of the Record of policy actions of the Committe for the meeting of November 3, 1987, are available upon request to The Board of Governors of the Federal Reserve System. Washington, DC 20551.

Growth of the monetary aggregates appeared to have strengthened in October, with some of the strength reflecting heightened demands for transaction balances and other liquid assets in the latter part of the month. Even so, for 1987 through October, expansion of M2 evidently moved closer to, but remained below, the lower end of the range established by the Committee for the year, while growth of M3 was around the lower end of its range. Expansion in total domestic non-financial debt has remained in a more moderate trend in recent months.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stablity over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at its meeting in July to reaffirm the ranges established in February for growth of 5–½ to 8–½ percent for both M2 and M3 measured from the fourth quarter of 1986 to the forth quarter of 1987. The Committee agreed that growth in these aggregates around the lower ends of their ranges may be appropriate in light of deveopments with respect to velocity and signs of the potential for some strengthening in underlying inflationary pressures, provided that economic activity is expanding at an acceptable pace. The monitoring range for growth in total domestic nonfinancial debt set in February for the year was left unchanged at 8 to 11 percent.

For 1988, the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1987 to the fourth quarter of 1988, of 5 to 8 percent for both M2 and M3. The Committee provisionally set the associated range for growth in total domestic non-financial debt at 7–½ to 10–½ percent.

With respect to M1, the Committee recognized that, based on experience, the behavior of that aggregate must be judged in the light of other evidence relating to economic activity and prices; fluctuations in M1 have become much more sensitive in recent years to changes in interest rates, among other factors. Because of this sensitivity, which has been reflected in a sharp slowing of the decline in M1 velocity over the first half of the year, the Committee again decided at the July meeting not to establish a specific target for growth in M1 over the remainder of 1987 and no tentative range was set for 1988. The appropriateness of changes in M1 this year will continue to be evaluated in the light of the behavior of its velocity, developments in the economy and financial markets, and the nature of emerging price pressures. The Committee welcomes substantially slower growth of M1 in 1987 than in 1986 in the context of continuing economic expansion and some evidence of greater inflationary pressures. The Committee in reaching operational decisions over the balance of the year will take account of growth in M1 in the light of circumstances then prevailing. The issues involved with establishing a target for M1 will be carefully reappraised at the beginning of 1988.

In the implementation of policy for the immediate future, the Committee seeks to maintain the degree of pressure on reserve positions sought in recent days. The Committee recognizes that the volatile conditions in financial markets and uncertainties in the economic outlook may continue to call for a special degree of flexibility in open market operations, depending, in particular, on demands for liquidity growing out of recent or prospective developments in financial markets. Apart from each considerations, somewhat lesser reserve restraint would, or slightly greater reserve restraint might, be acceptable depending on the strength of the business expansion, indications of inflationary pressures, development in foreign exchange markets, as well as the behavior of the monetary aggregates. While the outlook for monetary growth over the months ahead is subject to unusual uncertainly, the contemplated reserve conditions are the period from September through December at annual rates of about 6 to 7 percent, but more rapid growth is possible should preferences for liquidity be particularly strong. Over the same period, growth in M1 is expected to be well above its average pace in the previous several months. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, February 2, 1988.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 88–2629 Filed 2–8–88; 8:45 am]

BILLING CODE 6210–01–M

Citicorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23 of the Board's Regulation Y (12 CFR 225.23) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to continue to engage, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 3, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York, to engage through Great Western Bank and Trust, Phoenix, Arizona, and its subsidiary, Great Western Insurance Agency, in insurance agency activities pursuant to section 4(c)(8)(D) of the Bank Holding Company Act and § 225.25(b)(8)(iv) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–2630 Filed 2–8–88; 8:45 am]

BILLING CODE 6210–01–M

Citizens Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing

must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 29, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Citizens Financial Group, Inc.*, Providence, Rhode Island, to acquire at least 24.9 percent of the voting shares of Fairhaven Savings Bank, Fairhaven, Massachusetts.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *UBS Holding Company, Inc.*, Glenville, West Virginia, to become a bank holding company by acquiring 100 percent of the voting shares of Kanawha Union Bank, Glenville, West Virginia, and The Weston National Bank, Weston, West Virginia.

2. *United Bankshares, Inc.*, Charleston, West Virginia, to acquire 100 percent of the voting shares of Heritage Bancorp, Inc., Glenville, West Virginia, thereby indirectly acquire Kanawha Union Bank, Glenville, West Virginia, and The Weston National Bank, Weston, West Virginia.

3. *United Bankshares, Inc.*, Charleston, West Virginia, to acquire 100 percent of the voting shares of Ohio Valley National Bank of Vienna, Vienna, West Virginia.

4. *United Bankshares, Inc.*, Charleston, West Virginia, to acquire 100 percent of the voting shares of Webster County National Bank, Webster Springs, West Virginia.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Eastern Bankshares Corp.*, Hialeah, Florida, to become a bank holding company by acquiring 92.53 percent of the voting shares of Eastern National Bank, Miami, Florida.

2. *Eastern Overseas Bank, Ltd.*, Georgetown, Grand Cayman, to become a bank holding company by acquiring 10 percent of the voting shares of Eastern Bankshares Corp., Hialeah, Florida.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *National City Bancshares, Inc.*, Evansville, Indiana, to acquire 100 percent of the voting shares of The Peoples National Bank of Grayville, Grayville, Illinois.

Board of Governors of the Federal Reserve System, February 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2631 Filed 2-8-88; 8:45 am]

BILLING CODE 6210-01-M

First Commercial Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23 of the Board's Regulation Y (12 CFR 225.23) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to continue to engage, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1988.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Commercial Corporation*, Little Rock, Arkansas, to engage *de novo* through its subsidiary First Commercial Finance Corporation, Little Rock, Arkansas, in originating commercial, real estate, and consumer loans for its own account, and originating and servicing similar loans for the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y; acting as agent for a licensed insurance company with respect to the sale of credit life, accident, and health insurance regarding certain loans it makes, pursuant to § 225.25(b)(8)(i)(A) of the Board's Regulation Y; and acting as broker in leasing personal property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2632 Filed 2-8-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; Richard J. Meyer, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 19, 1988.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Richard J. Meyer*, Fullerton, California, to acquire 2.78 percent of the voting shares of Pacific Inland Bancorp, Anaheim, California, thereby indirectly acquire Pacific Inland Bank, Anaheim, California.

2. *Claudine Williams*, Las Vegas, Nevada, to acquire 15.91 percent of the voting shares of American Bancorp of Nevada, Las Vegas, Nevada, thereby indirectly acquire American Bank of Commerce, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, February 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2633 Filed 2-8-88; 8:45 am]

BILLING CODE 6210-01-M

Omnibancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 2, 1988.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Omnibancorp.*, Denver, Colorado, to acquire 6.1 percent of the voting shares of C.C.B., Inc., Denver, Colorado, parent of New Central Colorado Company, Denver, Colorado, parent of Central Bancorporation, Inc., Denver, Colorado, thereby indirectly acquire Central Bank of East Aurora, N.A., Aurora, Colorado; First National Bank in Aspen, Aspen, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of Broomfield, Broomfield, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Colorado Springs, Colorado Springs, Colorado; Central Bank of Garden of the Gods, N.A., Colorado Springs, Colorado; Central Bank of Chapel Hills, N.A., Colorado Springs, Colorado; First National Bank in Craig, Craig, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Inverness, N.A., Englewood, Colorado; Central Bank of Glenwood Springs, N.A., Glenwood Springs, Colorado; Central Bank of Grand Junction, N.A., Grand Junction, Colorado; Central Bank of Greeley, West Greeley, Colorado; Central Bank of Chatfield, Littleton, Colorado; Central Bank at Centennial, N.A., Littleton, Colorado; Central Bank of Pueblo, N.A., Pueblo, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; and Central Bank of Westminster, N.A., Westminster, Colorado.

In connection with this application, Applicant has also applied to acquire Central Bancorp Life Insurance Company, Denver, Colorado, and thereby engage in underwriting life, accident and health insurance directly related to credit extended by subsidiaries of Company's parent, Central Bancorporation, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2634 Filed 2-8-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service; Delegation of Authority

By the authority vested in me by the Social Security Act, as amended, I hereby delegate to the Assistant Secretary for Health the authorities under section 1921, entitled, "Information Concerning Sanctions Taken by State Licensing Authorities Against Health Care Practitioners and Providers." This delegation excludes the authorities to issue guidelines or regulations and submit reports to Congress. It is effective on the date of signature.

Date: January 29, 1988.

Otis R. Bowen,

Secretary

[FR Doc. 88-2703 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-15-M

Food and Drug Administration

[Docket No. 87F-0415]

Mobil Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mobil Chemical Co. has filed a petition proposing that the food additive regulations be amended by removing the limitations on the conditions of use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) when used in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

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 8B4053) has been filed by Mobil Chemical Co., c/o 1150 17th St. NW., Washington, DC 20036, proposing that § 177.1635 *Poly(p-methylstyrene) and rubber-modified poly(p-methylstyrene)* (21 CFR 177.1635) of the food additive regulations be amended by deleting the conditions of use in paragraph (e), thereby authorizing the safe use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in contact with all foods.

The potential environmental impact of this action is being reviewed. 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 regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 29, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-2638 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0416]

Pfizer Central Research, Pfizer, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pfizer Central Research, Pfizer, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a genetically modified *Escherichia coli* K-12 (*E. coli* K-12) as a source of chymosin for use in food.

FOR FURTHER INFORMATION CONTACT: Eric Flamm, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

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 8A4048) has been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, NY 10017, proposing that Part 173—Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR Part 173), be amended to provide for the safe use of a genetically modified *E. coli* K-12 as a source of prochymosin. The prochymosin preparation obtained by fermentation of the modified *E. coli* K-12 is processed to yield chymosin for use in food. Elsewhere in this issue of the **Federal Register** is a notice of filing of a petition (GRASP 8G0337) proposing that chymosin derived from the fermentation of a genetically modified *E. coli* K-12 be affirmed as generally recognized as safe as a direct human food ingredient.

The potential environmental impact of this action is being reviewed. 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 regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 29, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-2639 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87G-0418]

Pfizer Central Research, Pfizer, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pfizer Central Research, Pfizer, Inc., has filed a petition (GRASP 8G0337) proposing that chymosin derived from the fermentation of a genetically modified *Escherichia coli* K-12 (*E. coli* K-12) be affirmed as generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by April 11, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eric Flamm, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 8G0337) has been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, NY 10017, proposing that chymosin derived from the fermentation of *E. coli* K-12 genetically modified to contain and express a prochymosin gene be affirmed as generally recognized as safe (GRAS) as a direct human food ingredient. Elsewhere in this issue of the **Federal Register** is a notice of filing of a petition (FAP 8A4048) proposing that Part 173—Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR Part 173), be amended to provide for the safe use of a genetically modified *E. coli* K-12 as a source of prochymosin, which is processed to yield chymosin.

The GRAS affirmation petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. 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 regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before April 11, 1988, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m and 4 p.m., Monday through Friday.

Dated: January 29, 1988.

Richard J. Ronk,

Acting Director, Center for Food Saftey and Applied Nutrition.

[FR Doc. 88-2640 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-01-M

Indian Health Service

Health and Allied Health Professions Eligibility for Scholarship Consideration

AGENCY: Indian Health Service, DHHS.

ACTION: Notice of Health and Allied Health Professions which will be eligible for scholarship support under Indian Health Service Scholarship Program (IHSSP).

SUMMARY: The IHS is publishing a list of health and allied health professions for which support under the various scholarship programs administered by the IHS may be available for the 1988-1989 academic year and possibly beyond. Actual awards will be dependent upon the availability of funds. Awards may be available in health and allied health professional areas not listed pending the availability of funds and dependent upon the availability of qualified applicants in the priority areas. This list will remain in effect until superseded.

DATE: This IHS policy is effective on February 9, 1988.

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Mr. Larry Thomas, Indian Health Service, Parklawn Building, Room 6-12, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone 301-443-6197. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Health Professions Preparatory and Pregraduate Scholarship Programs for American Indians and Alaska Natives are authorized by section 103 of the Indian Health Care Improvement Act, Pub. L. 94-437 as amended by Pub. L. 96-537, Indian Health Care Amendments of 1980. The Indian Health Service Scholarship Program is authorized by section 338G of the Public Health Service Act. Both programs are intended to encourage American Indian and Alaska Natives to enter the health professions and to assure the availability of Indian health professionals to serve Indians. The list below is based upon the needs of the IHS as well as upon the needs of the Indians for additional service by specific health professions.

Regulations at 42 CFR 36.304 provide that the IHS shall, from time to time, publish a list of health professions eligible for consideration for the award of Health Professions Preparatory and Pregraduate Scholarships for Indians and Health Scholarships. Also, section 338C(b)(1) of the Public Health Service Act (42 U.S.C. 254r(b)(1)) authorizes the determination of specific health professions for which Indian Health Scholarships will be awarded.

Pending the availability of funds, consideration will be given to qualified applicants for scholarship support under the above-named scholarship programs in the following health profession categories:

Priority Categories

Health Professions Preparatory Scholarship Program for Indians

A. Pre-Nursing.
B. Pre-Accounting.
C. Pre-Pharmacy.

Pre-Graduate Program

(Priority Given in the following manner based on academic level: Senior, Junior, Sophomore, Freshman).
A. Pre-Medicine.
B. Pre-Dentistry.

Indian Health Scholarship Program

A. Medicine: Allopathic and Osteopathic.
B. Nursing: ADN, BSN, and MS Degrees.
C. Pharmacy: (Priority given as follows: Senior, Junior, Sophomore and Freshman).
D. Engineering: Civil, Environmental and Mechanical; BS Degree. (Priority given as follows: Senior, Junior, Sophomore and Freshman).
E. Dietician/Nutrition: BS Degree. (Priority as follows: Senior, Junior, Sophomore and Freshman).
F. Sanitarian: Environmental Health, Environmental Science, and Occupational Safety and Health; BS Degree. (Priority as follows: Senior, Junior, Sophomore and Freshman).
G. Medical Technologist: BS Degree. (Priority as follows: Senior, Junior, Sophomore and Freshman).
H. Dentistry:
I. Accounting: BS Degree. (Priority as follows: Senior, Junior, Sophomore and Freshman).
J. Health Administration: Masters level only.
K. Statistician: Graduate and Undergraduate. (Priority as follows: Graduate, Senior, Junior, Sophomore and Freshman).
L. Dental Hygiene: BS Degree. (Priority as follows: Senior, Junior, Sophomore and Freshman).
M. Health Education: Masters level only.
N. Chemical Dependancy Counseling: Masters level only.
O. Nurse Practitioner: RNA, CNM and FNP.
P. Physician Assistants: (Priority as follows: Senior, Junior, Sophomore and Freshman).
Q. Public Health: MPH only (Applicants must be enrolled or accepted in a school of public health and must have the (2) years of health delivery experience.
R. Clinical Psychology: Ph.D. level only.
S. Optometry:
T. Physical Therapy: (Priority as follows: Graduate, Senior. Junior. Sophomore and Freshman).

Interested individuals are reminded that the list of eligible health and allied health professions is initially effective for the applicants for the 1988-1989 academic year. These priorities will remain in effect until superseded. Applicants for health and allied health professions not on the above priority list will be considered pending the availability of funds and dependent upon the availability of qualified applicants in the priority areas.

The Health Professions Preparatory and Pregraduate Scholarship Program for Indians is listed as No. 13.971 in the OMB Catalog of Federal Domestic Assistance. The Indian Health Scholarship Program is listed as No. 13.972 in the catalog.

Dated: February 1, 1988.

Everett R. Rhoades,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 88-2702 Filed 2-8-88; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

National Park Service

Wrangell-St. Elias National Park and Preserve; Intention To Negotiate Concession Permits

Notice is hereby given that sixty (60) days after the date of publication of this notice, the Superintendent of Wrangell-St. Elias National Park and Preserve proposes to renew concession permits with Devil's Mountain Lodge, Grizzly Lake Ranch, Ptarmigan Lake Lodge, AAA Alaska Outfitters, and Alaska Trophy Hunting authorizing them to continue to provide guided hunting services for the public in Wrangell-St. Elias National Preserve for a period of four (4) years from January 1, 1988 through December 31, 1991 pursuant to the Concessions Policy Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20).

The State of Alaska Guide Licensing Control Board assigns hunting areas to commercial guides. Under existing State regulations, only the current concessioners are eligible to conduct guided hunting services within the areas authorized by these permits.

These concessioners have performed satisfactorily under existing permits which expire by limitation of time on December 31, 1987, and are entitled to a preference in renewal of this authorization as further described in 36 CFR Part 51.

The Superintendent will consider and evaluate all proposals received as a result of this notice. Any proposal, including those of the existing concessioners, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated. Only proposals from State of Alaska registered hunting guides who hold State of Alaska assigned guide areas within the areas authorized by these permits will completely meet the eligibility criteria.

This permit 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.

Interested parties should contact the Superintendent, Wrangell-St. Elias National Park/Preserve, P.O. Box 29, Glennallen, AK 99588, (907) 822-5234, for information and a Fact Sheet.

Richard H. Martin,

Superintendent.

Date: December 19, 1987.

[FR Doc. 88-2682 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-70-M

Decker Canyon Development Concept Plan, Santa Monica Mountains National Recreation Area; Availability of Final Environmental Impact Statement

SUMMARY: Pursuant to section 102 (2) (C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the National Park Service, Department of the Interior has prepared a final environmental impact statement (FEIS) assessing the potential impacts of the proposed management and development of the Decker Canyon property in the Santa Monica Mountains National Recreation Area, Los Angeles and Ventura Counties, California.

The proposed action recommends the development of a portion of the Decker Canyon property as an overnight, barrier free environmental education center. Other alternatives evaluated ranged from no action to exchanging part of the property for other high priority lands to development of day use facilities only.

DATES: The 30 day no action period following the Environmental Protection Agency's notice of availability of the final EIS will end on or about March 10, 1988.

ADDRESSES: Inquiries on the FEIS should be directed to: Superintendent, Santa Monica Mountains National Recreation Area, 2290 Ventura Blvd., Suite 140, Woodland Hills, California 91364.

Copies of the FEIS are available for inspection at the park headquarters in Woodland Hills and in libraries located in the park vicinity. Copies are also available at the following address: Western Regional Office, National Park Service, Attn: Division of Planning, Grants and Environmental Quality, P.O. Box 36063, 450 Golden Gate Ave., Room 14033, San Francisco, California 94102.

Date: January 20, 1988.

Lewis S. Albert,

Acting Regional Director, Western Region.

[FR Doc. 88-2683 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area; Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Thursday, March 10, 1988, at Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Ms. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Mr. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams.

The first agenda item will be a presentation by the United States Army on the scoping process currently under way for the Environmental Impact Statement on the Master Plan for the Presidio of San Francisco.

The second agenda item will be a joint presentation by the staffs of Golden Gate National Recreation Area and the Presidio of San Francisco on formal plans for development of the Presidio Bayfront/Crissy Field in San Francisco. The plans for those Presidio Bayfront/Crissy Field lands under U.S. Army management were developed by the Directorate of Engineering and Housing at the Presidio of San Francisco. Plans for the Golden Gate National Recreation Area portions of Presidio Bayfront/Crissy Field were developed with the assistance of John Northmore Roberts, Landscape Architects and Land Planners, of Berkeley, California, under the auspices of the Golden Gate National Park Association. The San Francisco City Planning Commission staff has also participated in the formulation of this plan. The joint U.S. Army/National Park Service planning effort has been undertaken to assure that the requirements of both the Army and the National Park Service are addressed in development of this critical urban shoreline.

A presentation to the public of broad development plans for the Presidio Bayfront/Crissy Field was made before the GGNRA Advisory Commission on November 10, 1987. Comments from that meeting are incorporated in the design options to be presented at this meeting.

The meeting is open to the public. Persons wishing to receive further information on this meeting or who wish to submit written statements may contact General Superintendent Brian O'Neill, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after March 24, 1988. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Date: February 2, 1988.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 88-2684 Filed 2-8-88; 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 January 30, 1988. 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 February 24, 1988.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Putnam County

Palatka, *Old A.C.L. Union Depot*, 200 N. Twelfth St.

MAINE

Cumberland County

Cape Elizabeth vicinity, *Ram Island Ledge Light Station (Light Stations of Maine MPS)*, Ram Island Ledge, Portland Harbor

South Harpswell vicinity, *Halfway Rock Light Station (Light Stations of Maine MPS)*, Casco Bay off, Bailey Island.

Hancock County

Frenchboro vicinity, *Great Duck Island Light Station (Light Stations of Maine MPS)*, Southern tip of Great Duck Island

Frenchboro vicinity, *Mount Desert Light Station (Light Stations of Main MPS)*, Mount Desert Rock

Prospect Harbor vicinity, *Prospect Harbor Light Station (Light Stations of Maine MPS)*, Prospect Harbor Pt.

Knox County

Matinicus Island vicinity, *Matinicus Rock Light Station (Light Stations of Maine MPS)*, Matinicus Rock

Tenants Harbor vicinity, *Whitehead Light Station (Light Stations of Maine MPS)*, E side of Whitehead Island

Vinalhaven vicinity, *Saddleback Ledge Light Station (Light Stations of Maine MPS)*, Saddleback Ledge, Isle Au Haut Bay.

Washington County

Cutler vicinity, *Little River Light Station (Light Stations of Maine MPS)*, Little River Island

Lubec vicinity, *Lubec Channel Light Station (Light Stations of Maine MPS)*, Lubec Channel.

York County

York vicinity, *Boon Island Light Station (Light Stations of Maine MPS)*, Boon Island.

MASSACHUSETTS

Hampden County

Chester, *Chester Center Historic District*, Skyline Trail at intersection of Bromley and Lyman Rds.

Middlesex County

Shirley, *Parker, James, House*, R.R. 1, Box 30 Center Rd.

Norfolk County

Needham, *Whitney, Israel, House*, 963 Central Ave.

NEW YORK

Westchester County

Peekskill, *Mount Florence*, Maple Ave.

NORTH CAROLINA

Alamance County

Elon College, *Elon College Historic District*, S side of Haggard Ave. between William and O'Kelly.

Chatham County

Gulf vicinity, *Jordan, Marion Jasper, Farm (Chatham County MR)*, R. Jordan Rd./SR 2145.

Davidson County

Yadkin College, *Yadkin College Historic District*, N and S sides of SR 1194 W of SR 1436.

RHODE ISLAND

Kent County

Tillinghast Mill Site

East Greenwich, *Tillinghast Road Historic District*, Tillinghast Rd.

[FR Doc. 88-2710 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-70

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31221]

Iowa Northern Railway Co.; Exemption; Trackage Rights; Chicago and North Western Transportation Co.

Chicago and North Western Transportation Company has agreed to grant local trackage rights to Iowa Northern Railway Company, between Milepost 324.0 and Milepost 324.8, in Waterloo, IA, to provide rail service to a single rail user. The trackage rights became effective on January 27, 1988.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: January 28, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-2405 Filed 2-8-88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31206]

ITEL Rail Corp. and ITEL Corp.; Continuance in Control Exemption; FRVR Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the continuance in control by Itel Rail Corporation and, in turn, Itel Corporation of FRVR Corporation, subject to standard labor protective conditions.

DATES: This exemption will be effective on February 19, 1988. Petitions for reconsideration must be filed by February 29, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31206 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representatives: Thomas J. Byrne, Carl V. Lyon, 1101 30th Street NW., Suite 302, Washington, DC 20007 and

John M. Nannes, Robert A. Potter, 1440 New York Avenue NW., Washington, DC 20005

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 (DC 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: February 3, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Lamboley concurred in the result with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88-2814 Filed 2-8-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to The Clean Water Act; Chevron USA, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 22, 1988, a proposed Consent Decree in *United States v. Chevron USA, Inc.*, Civil No. 86-5574 RG, was lodged with the United States District Court for the Central District of California. The proposed Consent Decree concerns the prevention of the discharge of pollutants by Chevron in excess of the limits in its National Pollutant Discharge Elimination System permit and in violation of the Clean Water Act. The proposed Consent Decree requires

Chevron to comply with the Clean Water Act and to pay a civil penalty of $1,500,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resoruces Division, Department of Justice, Washington, DC 20530, and should refer to Chevron USA, Inc., D.J. Ref. 90-5-1-1-2643.

The proposed Consent Decree may be examined at the office of the United States Attorney, Central District of California, 312 Spring Street, Los Angeles, California 90012, and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-2679 Filed 2-8-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Resource and Conservation Recovery Act; Paxton Landfill Corp. et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on January 15, 1988, a proposed consent decree in *United States* v. *Paxton Landfill Corporation, Stryker International, Inc. and American National Bank and Trust Company, as trustee for Stryker International, Inc.*, Civil Action No. 84 C 8531, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree resolves a judicial enforcement action brought by the United States against the Paxton Landfill Corporation and Stryker International, Inc. for violations of the Resource Conservation and Recovery Act ("RCRA").

The proposed consent decree requires Paxton Landfill Corporation and Stryker International to perform an environmental study of the Paxton II section of the Paxton Landfill, which is located at 12201 South Oglesby, Chicago, Illinois. The purpose of the study is to assess the nature and extent of possible surface and subsurface contamination associated with Paxton II. The study includes, among other things, a ground water monitoring program designed to characterize ground water quality at Paxton II and the excavation and sampling of leachate pits to assess the potential for leachate migration.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Paxton Landfill Corporation, et al.*, D.J. 90-7-1-263.

The proposed consent decree may be examined at the office of United States Attorney, 219 South Dearborn Street, Chicago, Illinois and at the office of Regional Counsel, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.60 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-2624 Filed 2-8-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Allison Abrasive 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 investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 19, 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 February 19, 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 1st day of February 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of Petition	Petition No.	Articles produced
Allison Abrasive (USW)	Shelton, CT	2/1/88	1/15/88	20,426	Wheels.
Amcodyne, Inc. (Workers)	Longmont, CO		1/22/88	20,427	Computer products.
Camphill Manufacturing (ACTWU)	Camphill, AL		1/22/88	20,428	Suits.
Capitol Records (Company)	Winchester, VA		1/22/88	20,429	Cassettes.
Johnson Controls, Inc. (SWI)	Georgetown, KY		1/19/88	20,430	Component parts.
Ladd Petroleum Corp., Mid-Continent Region (Workers)	Tulsa, OK		1/20/88	20,431	Oil and gas.
Ladd Petroleum Corp., Rocky Mountain Region (Workers)	Denver, CO		1/20/88	20,432	Do.
Ladd Petroleum Corp. Gulf Coast Region (Workers)	Houston, TX		1/20/88	20,433	Do.
Levelor Loretzen Co. (Workers)	North Bergen, NJ		1/13/88	20,434	Hardware.
Mirro Corp. (USWA)	Manitowoc, WI		1/21/88	20,435	Cookware.
Murata Erie North America, Inc. (Workers)	Carlisle, PA		1/19/88	20,436	Quartz crystals & filters.
Pownal Tanning Co. (Workers)	North Pownal, VT		1/18/88	20,437	Shoes.
Southwest General Industry (Workers)	Phoenix, AZ		1/11/88	20,438	Computers.
Terra Resources, Inc. (Workers)	Midland, TX		1/19/88	20,439	Oil and gas.
Transco Exploration Co. (Workers)	Denver, CO		1/6/88	20,440	Do.
Wagner Products (USWA)	Hustisford, WI		1/8/88	20,441	Casters and wheels.
Witeco Corp. (Workers)	Youngsville, PA		1/7/88	20,442	Crude oil.

[FR Doc. 88-2713 Filed 2-8-88; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Sportswear Inc., 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 January 25, 1988–January 29, 1988.

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-20,272; Sportswear, Inc., Boston, MA

TA-W-20,303; Monsanto Chemical Co., Kenilworth, NJ

TA-W-20,319; Regency Exploration, Oklahoma City, OK

TA-W-20,253; Swift Independent, Moultrie, GA

TA-W-20,298; FBI Communications Systems, Inc., Utica, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,354; Donaldson Coal Co., Inc. Cedar Crove, WV

U.S. imports of metallurgical and bitumous steam coal, lignite and anthracite are negligible.

TA-W-20,353; Shrewsbury Coal Co., Shrewsbury, WV

U.S. imports of metallurgical and bitumious steam coal, lignite and anthracite are negligible.

TA-W-20,314; Mast Industries, Inc., Andover, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,371; Kiewit/Tulsa-Houston, A Joint Venture, Oyster Creek, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-20,328; Eaton Corporation, Marshall, MI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,321; Sprague Electric Co., San Antonio, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-20,337; Stone Container Corp., Bag Div., Bristol, TN

U.S. imports of kraft paper for bags declined absolutely in the first nine months of 1987 compared to the same period in 1986.

Affirmative Determinations

TA-W-20,305; Precision Catalytic Molding Co., Somersville, CT

A certification was issued covering all workers of the firm separated on or after November 2, 1986 and befoe March 1, 1987.

TA-W-20,331; Hanover Dowel Co., Bethel, ME

A certification was issued covering all workers of the firm separated on or after October 20, 1987 and before December 31, 1987.

TA-W-20,309; Carl Liametz Mfg. Co., LaCrosse, WI

A certification was issued covering all workers of the firm separated on or after November 24, 1986.

TA-W-20,312; General Electric Co., Louisville, KY

A certification was issued covering all workers of Building #6, Appliance Park separated on or after November 19, 1986.

TA-W-20,340; Cameron Iron Workrs, Sealy, TX

A certification was issued covering all workers of the firm separated on or after December 9, 1986.

TA-W-20,300; General Electric Co., Linton, IN

A certification was issued covering all workers related to the production of winding and assembly of fractional horsepower electric motors separated on or after November 20, 1986.

TA-W-20,323; True Form Foundation Corp., Windber, PA

A certification was issued covering all workers of the firm separated on or after November 18, 1986.

TA-W-20,360; Primeline Industries, Division of SML, Inc., Cuyahoga Falls, OH

A certification was issued covering all workers of the firm separated on or after August 1, 1987.

I hereby certify that the aforementioned determinations were issued during the period January 25, 1986–January 29, 1988. 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.

Dated: February 2, 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-2714 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,241]

Affirmed Determination Regarding Application for Reconsideration; Universal Wire Products, Inc., North Haven, CT

By an application dated January 8, 1988, an official of the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers of Universal Wire Products, Inc., North Haven, Connecticut. The denial notice was signed on December 31, 1987 and published in the **Federal Register** on January 14, 1988 (53 FR 961).

The company claims, among other things, that there was a relative increase of wire rope imports in 1987. The company submitted new sales data showing a fiscal sales decline for 1987.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 1st day of February 1988.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-2715 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Alaska

This notice announces the beginning of a new Extended Benefit Period in Alaska, effective on January 24, 1988, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit Period) for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the 13-week period ending on January 9, 1988, equals or exceeds 6 percent, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on January 24, 1988. This period will continue for no less than 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period. (20 CFR 615.13(d)(2)).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC on February 2, 1988.

Roberts T. Jones,

Acting Assistant Secretary of Labor.

[FR Doc. 88-2716 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-309-C]

Petition for Modification of Application of Mandatory Safety Standard; Clinchfield Coal Co.

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its McClure No. 1 Mine, 3-Left and 4-Left off Nealy Mains (I.D. No. 44-04251) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that the longwall unit will be mining the coal panel which is located between 3-Left and 4-Left off Nealy Mains. Due to the structural characteristics of the mine roof and due to the abutment pressures created from the adjacent mined out longwall panel, certain areas of the No 3 entry of 3-Left cannot be safely traveled.

3. As an alternate method, petitioner proposes to establish an air monitoring station at the entrance of the No. 3 entry of 3-Left off Nealy Mains In support of this request, petitioner states that—

(a) The air monitoring station will be examined by a certified person for air quality, and quantity, evaluation of roof conditions and air flow patterns on a daily basis. The results will be recorded in a book or in a dateboard at the measuring station and in a book kept on the surface;

(b) The air measurement station and approach to it will be maintained in a safe condition. The roof will be supported by roof bolts or other suitable means;

(c) The air measuring station will be shown on the mine ventilation system and methane dust control map and will be part of the approved ventilation plan for the mine. No air measuring station will be moved to another location without prior approval;

(d) Methane gas or other harmful, noxious or poisonous gases will not be permitted to accumulate in these airways in excess of the legal limits. An increase of 0.5 per centum methane above the last previous methane reading will cause an immediate investigation of the affected areas. If at any time there is a 10 percent reduction in air quantity, an immediate investigation of the affected areas will be conducted;

(e) A diagram showing the normal direction of the air current flow will be posted at the measuring station and at other strategic locations, and will be maintained in legible condition. Any change in the flow will be reported to the foreman;

(f) All persons who work in the area or will be assigned to work in the area will be instructed in emergency evacuation and escapeway routes; and

(g) Each person working on the longwall face will be required to have a one-hour self-contained self-rescuer within twenty-five feet of the working area.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 10, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 2, 1988.

[FR Doc. 88-2717 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-308-C]

Petition for Modification of Application of Mandatory Safety Standard; Horse Head Coal Co.

Horse Head Coal Company, P.O. Box 97, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 1 Slope (I.D. No. 36-06279) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantify of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or posionous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extermely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitichig mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that—

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries by 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantify of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 10, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 2, 1988.

[FR Doc. 88-2718 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-257-C]

Petition for Modification of Application of Mandatory Safety Standard; Kelly Energy Company, Inc.

Kelly Energy Company, Inc., Box 478, Clintwood, Virginia 24228-0478 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Kelly Energy No. 2 Mine (I.D. No. 44-06193) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine ranges from 46 to 48 inches in height, and has a downhill slope averaging 7 to 10 degrees sometimes reaching as much as 14 to 15 degrees. The lay of the bottom and the top of the coalbed is very uneven with an up and down effect, and sliding from left to right.

3. Petitioner states that the use of cabs or canopies on the mines's electric face equipment would result in a diminution of safety to the miners affected because the cabs or canopies could strike and dislodge permanent roof support, and would limit the equipment operator's vision.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 10, 1988. Copies of the petition are available for inspection at that address.

Date: February 2, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-2719 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-310-C]

Petition for Modification of Application of Mandatory Safety Standard;

Rushton Mining Company, P.O. Box 589, Philipsburg, Pennsylvania 16866 has filed a petition to modify the application of 30 CFR 77.902 (low- and medium-voltage ground check monitor circuits) to its Rushton Mine (I.D. No. 36-00856) located in Centre County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that three-phase low- and medium-voltage resistance grounded systems to portable and mobile equipment included a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. As an alternate method, petitioner proposes to utilize a combination motor controller, of adequate interrupting capacity, to function as a suitable circuit

breaker. In support of this request, petitioner states that–

(a) The combination motor controller system will be utilized when providing protection for single motor circuits;

(b) The use of combination motor controllers for the circuit protection does provide standardization of electrical equipment in processes comprised of both stationary and mobile three phase equipment;

(c) The point of circuit interruption is essentially the same physical location, whether the circuit breaker or motor controller opens the circuit. The circuit breaker and the motor controller are located in the same enclosure and physically separated by several inches;

(d) The motor controler is of adequate capacity for the intended circuit interrupting duty;

(e) Ground fault, overload and the ground monitor when activated, open the motor controller, thereby deenergizing the protected circuit. The motor controller will remain open until the fault condition is corrected and the protective devices are annually reset; and

(f) If the motor sizes are increased, the combination motor controller will be upgraded to provide the same degree of interrupting capacity safety factor as specified in the original design.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 10, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 2, 1988.

[FR Doc. 88-2720 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-302-C]

Petition for Modification of Application of Mandatory Safety Standard; Westmoreland Coal Co.

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Holton Mine No. 4, Right Longwall Panel (I.D. No. 44-04197) located in Lee County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that application of the standard would result in a diminution of safety to the miners affected due to the differing degrees of stability to which roof conditions deteriorate in the tailgate entry as the longwall face is mined.

3. As an alternate method, petitioner proposes to establish air-monitoring checkpoints along the No. 3 entry of the No. 4 Right development. In support of this request, petitioner states that—

(a) When an area of the tailgate entry cannot be safely traveled, the approach to that area will be dangered off and the quality and quantity of air returning from the longwall face will be evaluated for methane content and volume outby the dangered-off area; and

(b) One-hour, self-rescuers will be maintained along the longwall face in sufficient numbers to provide easy and prompt access should an emergency arise. All persons who work in this area will be advised when portions of the tailgate entry are dangered off and will be reinstructed in emergency evacuation procedures.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 10, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: February 2, 1988.

[FR Doc. 88-2721 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-336]

Northeast Nuclear Energy Co., Millstone Nuclear Power Station, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 and an associated license amendment to Northeast Nuclear Energy Company, et al. (the licensee) for the Millstone Nuclear Station, Unit No. 2, located at the licensee's site in New London County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The licensee is requesting an exemption from Paragraph III.A.3 of 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." In 1973, Appendix J was issued to establish requirements for primary containment leakage testing and incorporated by reference, ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations be performed by using either the point-to-point method or the total time method. The total time method was used the most by the nuclear industry until about 1976.

At this time, licensees who wish to use mass-point must submit an application for exemption from the Appendix J requirement that containment integrated leak rate tests will conform to ANSI N45.4. The exemption proposed by the licensee would be granted until pending changes to Appendix J become effective. In the mass-point method, the mass of air in containment is calculated and plotted as a function of time and leakage is calculated from the slope of the linear least squares.

With the present developments in technology, the mass-point method has gained increasing recognition.

The superiority of the mass-point method becomes apparent when it is compared with the two other methods. In the total time method, a series of leakage rates are calculated on the basis of air mass differences between an initial data point and each individual data point thereafter. If for any reason (such as instrument error, lack of temperature equilibrium, ingassing or

outgassing) the initial data point is not accurate, the results of the test will be affected. In the point-to-point method, the leak rates are based on the mass difference between each pair of consecutive points which are then averaged to yield a single leakage rate estimate. Mathematically, this can be shown to be the difference between the air mass at the beginning of the test and the air mass at the end of the test expressed as a percentage of the containment air mass. It follows from the above that the point-to-point method ignores any mass readings during the test and thus the leakage rate is calculated on the basis of the difference in mass between two measurements taken at the beginning and at the end of the test, which are 24 hours apart.

The licensee's request and bases for exemption are contained in a letter dated December 23, 1987.

The licensee has also requested changes to the Technical Specifications that are related to the containment leak rate test. By application for license amendment dated December 28, 1987, as supplemented by letter dated January 5, 1988, the licensee requested changes to Millstone Unit 2 Technical Specification (TS) 4.6.1.2, "Containment Leakage" as follows: (1) The reference to ANSI Standard N45.4–1972 would be deleted and (2) the error analysis requirements would be modified to allow the use of alternate methods. The above changes to the TS have been proposed by the licensee to allow for use of ANSI/ANS Stanard 56.8–1981 for "mass point" determination of containment leakage rate and for addressing the inherent errors associated with such testing, respectively.

A "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing" regarding the proposed changes to TS 4.6.1.2 was published in the **Federal Register** on January 12, 1988 (53 FR 766).

The Need for the Proposed Action

The exemption and associated license amendment are needed to allow use of the mass-point analysis method at Millstone Unit No. 2 and for improved analysis of the test results.

Environmental Impacts of the Proposed Action

The erraticism of the total time method creates a higher probability of unnecessarily failing a containment integrated leakage rate test (note that the calculational procedure is independent of containment tightness) possibly resulting in increased test frequency, critical path outage time, and exposure to test personnel. In addition, the proposed changes to the TS also allow use of improved methodology for analysis of test results.

Radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents, or have any other environmental impact. Therefore, the Commission concludes that there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption and associated license amendment.

Alternative to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption and associated license amendment; any alternatives to the exemption and associated license amendment will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption and associated license amendment.

For further details with respect to this action, see (1) the request for exemption dated December 23, 1987, (2) the application for license amendment dated December 28, 1987, as supplemented by letter dated January 5, 1988. Copies of (1) and (2) are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC 20555, and at the local public document room located at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Dated at Bethesda, Maryland, this 3rd day of February 1988.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–2695 Filed 2–8–88; 8:45 am]

BILLING CODE 7590-01-M

PEACE CORPS

Agency Information Collection Activities Under OMB Review

AGENCY: Peace Corps.

ACTION: Revision of Peace Corps Background Information Form.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget, a request to Revise the Peace Corps Backgound Information Form.

Section 22 of the Peace Corps Act (22 U.S.C. 2501 *et seq.*) mandates that "all persons employed or assigned to duties under the Act shall be investigated to insure that employment or assignment is consistent with national interest in accordance with standards and procedures established by the President." For information about the collection:

Agency Address: Peace Corps, 806 Connecticut Ave. NW., Washington, DC 20526.

Type of Request: Revision.

Frequency of Request: Recurring—Voluntary.

General Description of Respondents: Individuals who have applied for Peace Corps service and have been nominated to a specific program.

Estimated Number of Respondents: 10,000.

Estimated Hours for Respondents to Complete Form: 1,667.

Respondents Obligation to Reply: Voluntary.

Comments: Telephone comments on this proposal should be directed to Francine Picoult, Desk Officer, Office of Management and Budget on area code (202) 395–7340. A copy of this form can be obtained by contracting Pamela Davis at (202) 632–6594. This is not a request to which 44 U.S.C. 3504(h) applies.

This notice was issued in Washington, DC, on February 2, 1988.

Margaret H. Thome,

Associate Director for Management.

[FR Doc. 88–2649 Filed 2–8–88; 8:45 am]

BILLING CODE 6051-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-17651]

Application and Opportunity for Hearing; Dow Corning Corp.

February 3, 1988.

Notice is hereby given that Dow Corning Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. (the "Bank") under an indenture dated as of April 1, 1975 (the "April Indenture") between Company and Bank which was heretofore qualified under the Act and under an indenture dated as of August 1, 1987 (the "August Indenture") between Michigan Strategic Fund (the "Fund") and the Bank which has not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bank from acting as trustee under either indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign.

Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the April Indenture, the Company has outstanding on the date hereof approximately $15,102,000 aggregate principal amount of its 9⅝% Sinking Fund Debentures Due April 1, 2005 (the "Debentures"). The Debentures were registered under the Securities Act of 1933 (the "1933 Act"), and the April Indenture was qualified under the Act.

(2) Pursuant to the August Indenture, the Fund has outstanding approximately $4,000,000 aggregate principal amount of its Adjustable Tender Solid Waste Disposal Revenue Bonds (Dow Corning Corporation Project) Series 1987 (the "Bonds"). The proceeds of the sale of the Bonds were loaned to the Company pursuant to a Loan Agreement dated as of August 1, 1987 between the Fund and the Company. The Bonds are payable by the Fund solely from revenues received under the Loan Agreement together with any interest or other revenues available under the Bonds. The Fund has assigned its rights under the Loan Agreement to the Bank to secure payment of the Bonds. The Bonds are exempt from registration under the Securities Act, and the August Indenture was not qualified under the Act.

(3) Under section 608 of the April Indenture, the Bank shall not be deemed to have a conflicting interest by reason of being trustee under another indenture or indentures under which any other securities of the Company are outstanding if the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under the April Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under one of such indentures.

(4) The Company's obligations under the April Indenture and under the Loan Agreement with respect to Bonds issued under the August Indenture are in each case wholly unsecured and *pari passu* with each other.

(5) There is no default under the April Indenture or the August Indenture.

(6) Such differences as exist between the April Indenture and the respective obligations of the Company under the Loan Agreement with respect to the Bonds issued under the August Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under either indenture.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Office of the Commission's Public Reference Section, File No. 22-17651, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than February 27, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-2671 Filed 2-8-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24570; 70-7490]

System Energy Resources, Inc., et al.; Proposal by Subsidiary To Enter Into Nuclear Fuel Lease, by Parent To Guarantee Subsidiary's Obligations

February 3, 1988.

System Energy Resources, Inc. ("SERI"), P.O. Box 23070, Jackson, Mississippi 39225-3070, and its parent, Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, have filed an application-declaration with this Commission pursuant to sections 9(a), 10 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

SERI proposes to enter into a Nuclear Material Lease Agreement ("Lease") with PruLease, Inc. or an affiliate of PruLease, Inc. ("Fuel Company"), under which SERI would lease from the Fuel Company nuclear material used or to be used as nuclear fuel and facilities incident to its use ("Nuclear Material"). SERI currently owns a supply of Nuclear Material. SERI proposes to sell to the Fuel Company its interest in the Nuclear Material and simultaneously will enter into the Lease with the Fuel Company. The Fuel Company will pay SERI the book cost of such interest which is estimated to be approximately $48 million at February 29, 1988.

Under the terms of the Lease, if mutually agreed between SERI and the Fuel Company, the Fuel Company will make additional payments to existing or future suppliers, processors, and manufacturers necessary to carry out the terms of SERI's contracts for the acquisition of its Nuclear Material

requirements, or SERI will make such payments subject to reimbursement, if mutually agreed between SERI and the Fuel Company. If agreed to by the Fuel Company and SERI, the interests of SERI under any such contracts may be assigned by SERI to the Fuel Company. The maximum commitment of the Fuel Company to make payments in respect of Nuclear Material is $50 million at any one time outstanding; however, such commitment will be reduced to the extent that Middle South's fuel procurement subsidiary, System Fuels Inc. ("SFI"), borrows under its $50 million line of credit (HCAR No. 23659; April 9, 1985).

Lease payments include (A) Rent, which is calculated separately for months or partial months to which no burn-up of the Nuclear Material is attributed, and for months or partial months to which burn-up of the Nuclear Material is attributed, both as defined; and (B) a Non-Usage Fee, as defined. Rent accrues monthly in advance and Non-Usage Fees, if any, accrue monthly in arrears, but are payable quarterly in arrears, unless otherwise provided.

Middle South proposes to guarantee the obligations of SERI under the Lease pursuant to the terms of a guaranty agreement to be entered into between Middle South and Fuel Company.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 26, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-2672 Filed 2-8-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before March 10, 1988. If you intend to comment but cannot prepare comments promptly, please advaise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearanace Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Application for Small Business Size Determination.

Form Nos.: SBA 355, 1340.

Frequency: On occasion.

Description of Respondents: Forms are completed by firms that require a formal size determination to qualify for SBA assistance.

Annual Responses: 4,038.

Annual Burden Hours: 16,150.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 88-2651 Filed 2-8-88; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan #2310]

Declaration of Disaster Loan Area; Alabama

Cullman County in the State of Alabama constitutes a disaster area because of damage from severe thunderstorms and tornadoes which occurred on January 19, 1988.

Applications for loans for physical damage may be filed until the close of business on April 1, 1988 and for economic injury until the close of business on November 1, 1988 at the address listed below: Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Floor, Atlanta, GA 30308.

or other locally announced locations.

The interest rates are:

Homeowners With Credit Available Elsewhere, 8.000%

Homeowners Without Credit Available Elsewhere, 4.000%

Business With Credit Available Elsewhere, 8.000%

Business Without Credit Available Elsewhere, 4.000%

Businesses (EIDL) Without Credit Available Elsewhere, 4.000%

Other (Non-Profit Organizations Including Charitable And Religious Organizations), 9.000%

The number assigned to this disaster is 231012 for physical damage and for economic injury the number is 660200.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 1, 1988.

James Abdnor,

Administrator.

[FR Doc. 88-2652 Filed 2-8-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 88-2-6]

Fitness Determination of Airplanes, Inc. d/b/a Cal-West Aviation, d/b/a Cal-West Airlines, and d/b/a Lake Coastal Airlines

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Airplanes, Inc. is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses

All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, Room 6420, Department of Transportation, 400 7th Street SW., Washington, DC 20590, and serve them

on all persons listed in Attachment A to the order. Responses shall be filed no later than February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Air Carrier Fitness Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2337.

Dated: February 3, 1988.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-2686 Filed 2-8-88; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 1, 1988.

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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0017
Form Number: ATF F 6—Part I (5330.3A).
Type of Review: Extension.
Title: Application and Permit for Importation of Firearms, Ammunition and Implements of War.
Description: This information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. Used to secure authorization to import such articles for all persons except for those persons who are members of the United States Armed Forces.
Respondents: Individuals or households, Businesses or other for-profit, Small Businesses or organizations.
Estimated Burden: 4,500 hours.

OMB Number: 1512-0466.
Form Number: ATF REC 5170/7.
Type of Review: Extension.
Title: Alternate Methods of Procedures, and Emergency Variations From Requirements of Liquors.
Description: ATF allows for exporters of liquors to apply for and receive approval for variances from the requirements of the regulations in 27 CFR Part 252. This is similar to provisions found throughout Title 27 CFR for all other individuals regulated by ATF.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 265 hours.
Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-2642 Filed 2-8-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 2, 1988.

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: 1545-0739.
Form Number: None.
Type of Review: Extension.
Title: Addition to Tax for a Substantial Understatement of Liability.
Description: Section 6661 of the Internal Revenue Code provides an addition to tax for a substantial understatement of income tax liability. Taxpayers may avoid the application of the provision by voluntarily disclosing relevant facts on their tax returns or in a statement attached thereto. The regulations describe what is to be disclosed and the manner of disclosure.
Respondents: Individuals or households, Farms, Businesses or other for-profit.
Estimated Burden: 25,000 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OBM 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. 88-2643 Filed 2-8-88; 8:45 am]

BILLING CODE 4810-25-M

Office of the Comptroller of the Currency

[Docket No. 88-1]

Senior Executive Service; Performance Review Board; Membership Change

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of change in membership of a Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the new membership of the Office of the Comptroller of the Currency (OCC) Performance Review Board (PRB), pursuant to 5 U.S.C. 4314(c)(4).

EFFECTIVE DATE: February 9, 1988.

FOR FURTHER INFORMATION CONTACT: Daniel E. Harrington, Director for Human Resources, (202) 447-1460, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The membership of the (OCC) PRB (52 FR 1273, January 12, 1987) has been changed. The current membership is as follow:

Judith A. Walter, Chairperson, Senior Deputy Comptroller for Administration
Dana H. Cook, Senior Adviser to the Comptroller
Dean S. Marriott, Senior Deputy Comptroller for Bank Supervision—Operations
Robert J. Herrmann, Senior Deputy Comptroller for Bank Supervision—Policy
J. Michael Shepherd, Senior Deputy Comptroller for Corporate and Economic Programs
Frank Maguire, Senior Deputy Comptroller for Legislative and Public Affairs
Paul Allan Schott, Chief Counsel

Date: January 25, 1988.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 88-2685 Filed 2-8-88; 8:45 am]

BILLING CODE 4810-33-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 26
Tuesday, February 9, 1988

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).

COUNCIL ON ENVIRONMENTAL QUALITY

Date, time, place: Tuesday, February 16, 1988; 10:00 am, Council on Environmental Quality Conference Room, First Floor, 722 Jackson Place, NW., Washington, DC 20503.

Status: Open.

Matters to be considered: The meeting scheduled for February 17, 1988 is being rescheduled and will be held one day earlier, on February 16, 1988. At this meeting, the Council on Environmental Quality will be hearing from Dr. Robert Worrest regarding the aquatic impacts of stratospheric ozone depletion and global warming.

Other matters may be discussed.

FOR FURTHER INFORMATION CONTACT: Lucinda Low Swartz, Deputy General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20503. Telephone: (202) 395-5754.

A. Alan Hill,

Chairman.

[FR Doc. 88-2852 Filed 2-5-88; 5:12 pm]

BILLING CODE 3125-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, February 12, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to the Board's Rules Regarding Delegation of Authority concerning terminations of and modifications to cease and desist orders.

Discussion Agenda

2. Request by the Education Foundation of State Bank Supervisors for funding assistance.

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: February 5, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-2754 Filed 2-5-88; 10:46 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Apporoximately 10:30 a.m., Friday, February 12, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: February 5, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-2753 Filed 2-5-88; 10:46 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Tuesday, February 16, 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.

Date: February 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2832 Filed 2-5-88; 3:58 pm]

BILLING CODE 6210-01-M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00 a.m.-5:00 p.m., Thursday and Friday, February 18 and 19, 1988.

PLACE: American Chemical Society, 1155 16th Street NW., Washington, DC 20036. Conference Rooms B and C First Floor.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98-525).

AGENDA (TENTATIVE): Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Fiscal Year 1989 Budget. Consideration of individual grant applications.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 457-1700.

Dated: February 3, 1988.

Samuel W. Lewis,

President, United States Institute of Peace.

[FR Doc. 88-2745 Filed 2-5-88; 10:27 am]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 53, No. 26
Tuesday, February 9, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

Proclamation 5768 of February 4, 1988

National Tourism Week, 1988

By the President of the United States of America

A Proclamation

Correction

In Presidential Proclamation 5768 appearing on page 3573 in the issue of Monday, February 8, 1988, make the following correction:

The file line at the end of the document was partially omitted and should have read as follows:

[FR Doc 88-2725 Filed 2-4-88; 4:08 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-87-1357, FR-2382]

Mortgage Insurance for the Allegany Reservation of the Seneca Nation of Indians

Correction

In rule document 87-29092 beginning on page 48197 in the issue of Monday, December 21, 1987, make the following correction:

§ 200.163 [Corrected]

On page 48201, in the first column, in § 200.163(a)(2), in the seventh line, "203(g)" should read "200(q)".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-88-1766; FR 2441]

Mortgage and Loan Insurance Programs Under the National Housing Act; Debenture Interest Rates

Correction

In notice document 88-1022 appearing on page 1521 in the issue of Wednesday, January 20, 1988, make the following corrections:

1. In the first column, the docket number should read as set forth above.

2. In the same column, under **SUMMARY**, in the seventh line from the bottom, "instance" should read "insurance".

3. In the second column, in the table, in the first column, in the next to the last entry "8" should read "9"; in the last column, in the fifth entry, the date should read "July 1, 1981"; and in the seventh entry, the date should read "Jan. 1, 1983".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-43; Amdt. 39-5830]

Airworthiness Directives; Marvel Schebler (Facet Aerospace Products Company) Carburetors, Model MA-3PA, Part Numbers A10-5220, A10-5257, and A10-5267, Manufactured After June 30, 1985, and Used on Textron Lycoming Model O-235-CIC, O-235-H2C, O-235-L2A, O-235-L2C, O-235-N2C, O-235-P1 Engines

Correction

In rule document 88-1055 beginning on page 1611 in the issue of Thursday, January 21, 1988, make the following correction:

On page 1612, at the bottom of the third column and on page 1613 at the top of the first column, the list of carburetors and serial numbers should have been displayed as a table. Therefore, the information is unchanged but printed in table format below:

Carburetors	Serial Number
Model: MA-3PA	DD-4-1583 through DD-4-1610,
P/N: A10-5220	DD-4-1613, DD-4-1614, DD-4-1617,
(Lycoming P/N: LW-16072)	DD-4-1619 through DD-4-1622,
Lycoming Engine Models: 0-235-C1C,	DD-4-1624 through DD-4-1627,
0-235-L2A, and 0-235-L2C	DD-4-1629, DD-4-1632, and DD-4-1633
Model: MA-3PA	DM-3-1818 through DM-3-1826,
P/N: A10-5257	
(Lycoming P/N: LW-16677)	
Lycoming Engine Models: 0-235-L2C and 0-235-H2C	DM-3-1828, and DM-3-1829
Model: MA-3PA	DT-3-1911 through DT-3-1913,
P/N: A10-5267	DT-3-1916, DT-3-1917,
(Lycoming P/N: LW-16677)	DT-3-1920, DT-3-1921, and
Lycoming Engine Models: 0-235-L2C, 0-235-N2C, and 0-235-P1	DT-3-1923 through DT-3-1981

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 47 and 49

[Docket No. 20349; Amdt. Nos. 47-23 and 49-9]

Recordation of Conveyances Affecting Title to, or an Interest in, Aircraft

Correction

In rule document 88-1376 beginning on page 1911 in the issue of Monday, January 25, 1988, make the following corrections:

1. On page 1912, in the second column, in the second complete paragraph, in the sixth line, "delegate" should read "delete".

2. On page 1913, in the second column, in the second complete paragraph, in the ninth line, delete "been".

3. On page 1914, in the second column, in the first complete paragraph, in the ninth line, "contract" should read "contracts".

4. In the same column, in the second complete paragraph, in the fifth line, insert "prior" after "interest"; and in the eighth line, "contract" should read "contracts".

5. On page 1915, in the first column, in the first complete paragraph, in the ninth line, "contract" should read "contracts".

6. In the same column, four lines from the bottom, insert "their" after "protect".

BILLING CODE 1505-01-D

Federal Register

Tuesday
February 9, 1988

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Special Flight Rules in the Vicinity of the Los Angeles International Airport, CA; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Airspace Docket No 87-AWA-31; SFAR 51-1]

Special Flight Rules in the Vicinity of the Los Angeles International Airport; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Special Federal Aviation Regulation (SFAR) establishes a Special Flight Rules Area over Los Angeles International Airport. This action allows visual flight rules (VFR) traffic to transition over the Los Angeles International Airport under specific conditions without obtaining an air traffic control (ATC) clearance.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

Availability of SFAR

Any person may obtain a copy of this Special Federal Aviation Regulation (SFAR) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future SFAR's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

History

Federal Aviation Regulations (FAR) Part 71, § 71.12, established terminal control areas (TCA) for the positive control of air traffic in the vicinity of major airports. Operations in a TCA are subject to the restrictions set forth in FAR 91.24. ATC Transponder and Altitude Reporting Equipment and Use, and FAR 91.90, Terminal Control Areas. In brief, pilots must obtain prior clearance from ATC before operating in the TCA, and aircraft must be equipped with a radio capable of two-way communications, an operable VOR or TACAN receiver (except for helicopters), a radar transponder, and Mode C automatic altitude reporting equipment. The requirements for an ATC clearance prior to operation in the TCA, and for sophisticated navigation, radar beacon and automatic altitude reporting equipment, have the effect of providing ATC with continuous location and altitude information and positive control of all aircraft in the TCA.

The FAA initiated an intensive review of TCA configuration and operation by a special task group following a midair collision between an air carrier DC-9 and a single engine private plane in the Los Angeles TCA over Cerritos, CA, August 1986. One of the recommendations made by the TCA review task group and subsequently adopted by the agency was to standardize and simplify TCA configuration. One aspect of the proposed configuration was to raise the ceiling of TCA's to 12,500 feet mean sea level (MSL), to preclude operations by aircraft without transponders and automatic altitude reporting (Mode C) equipment above the top of the TCA. Currently a transponder with Mode C is required for all operations above 12,500 feet MSL. As a result of the recommendations, the FAA issued a Notice of Proposed Rulemaking (NPRM) as Airspace Docket 87-AWA-31, Proposed Alteration of the Los Angeles Terminal Control Area (52 FR 29612), August 10, 1987.

The FAA, as evidenced from the NPRM, continually monitors the safe and orderly flow of air traffic in TCA's. On August 11, 1987, an American Airlines Boeing 737 pilot reported a near midair collision with a single engine aircraft above the Los Angeles TCA inside the airspace proposed to be included in the NPRM. The small aircraft did not appear on ATC radar and apparently did not have, and was not required to have, a radar transponder which would have produced a clear target on the controller's screen.

Subsequent to the American Airlines incident, the FAA, on August 19, 1987, issued SFAR 51 which, by immediate rule, amended the configuration of the Los Angeles TCA by raising the ceiling to 12,500 feet MSL and eliminating the visual flight rules (VFR) corridor excluded from the TCA. Even though the SFAR was issued as a final rule without a notice period, the FAA gave the same consideration for the concerns and ideas of interested parties by establishing a comment period which remained open until December 9, 1987. Additionally, four public meetings were held to receive comments on SFAR 51 and the NPRM.

Discussion of Comments

Over 1,700 comments were received in the public docket. Those which addressed modification of the Los Angeles TCA boundaries or configuration etc., will be discussed in the rulemaking for the original NPRM contained in 87-AWA-31. Those comments which spoke to the amendments contained in SFAR 51 have been considered in this rulemaking action. The comments received on the SFAR fell generally into three subject areas: (1) The VFR corridor; (2) the TCA ceiling, and (3) the administrative procedures followed by the FAA in adopting SFAR 51.

Several comments were received that were outside the scope of this rulemaking action and, therefore, will not be addressed here. Those subject areas included controller staffing, rules enforcement, pilot education, airline regulation, ATC equipment, the Aviation Trust Fund, and FAA independence from DOT.

The main area of concern expressed throughout the comments was the closure of the VFR corridor. The vast majority of commenters stated that closing the corridor would create an unsafe condition and would eventually cause a midair collision between general aviation aircraft trying to avoid the TCA. Many commenters stated that the compression of traffic below and to the sides of the TCA, due in part from the cumulative effect of closing the corridor and raising the ceiling of the TCA, also resulted in an unsafe condition. Recommendations from commenters concerning the corridor included: (1) Reopen the corridor; (2) reopen the corridor and charge a user fee (the funds from which were to be used to provide a controller to monitor the corridor); (3) reopen the corridor but assign a controller to monitor it; and (4) add a higher level corridor.

The FAA does not agree with reopening the VFR corridor. The FAA eliminated the corridor on the grounds that raising the ceiling to 12,500 feet MSL alone would have forced an unacceptable level of traffic through the VFR corridor. Flight around, under or through (with the appropriate ATC authorization) the TCA was more preferable from a safety standpoint than unrestricted flight through the corridor. However, based on the recommendations received, the FAA has developed an alternative to the VFR corridor that it believes will be safer than the corridor and will meet the

needs of the users for a convenient north/south route. This alternative, a special flight rules area, will provide pilots with a safe and direct north/south route without the usual TCA requirement for an ATC authorization. For safety, operation in the Special Flight Rules Area is limited to nonturbojet aircraft operating at no more than 140 knots indicated airspeed (IAS).

In a related action which does not require rulemaking, the FAA is establishing two additional VFR transition routes through the Los Angeles TCA for other VFR aircraft. Pilots requesting a designated VFR transition route must comply with all TCA requirements including an ATC authorization. The two new VFR transition routes are the Hollywood Park Route and the Shoreline Route and will be published on the Los Angeles Sectional Chart, and the Los Angeles Terminal Area Chart.

The second area of concern expressed by commenters was raising the TCA ceiling to 12,500 feet MSL. A large number of commenters supported the action. Some of those who objected to the raised ceiling recommended that the former ceiling be reestablished, while others agreed with the ceiling being raised but wanted it at a lower altitude. The recommended altitudes were 8,000, 9,000 or 10,000 feet MSL.

The FAA does not agree. The FAA TCA Review Task Group convened in September 1986 not only validated the TCA concept but also recommended raising the ceilings of TCA's to a standard altitude of 12,500 feet MSL. The 12,500 foot ceiling serves to protect the arrival and departure paths of aircraft at high-traffic airports in major metropolitan areas. The altitudes below 12,500 feet MSL are where the cockpit demands on the flightcrew are the heaviest and where large jet aircraft are most likely to mix with other types of traffic. The FAA finds a clear safety benefit in providing the controller with the opportunity to be aware of all transiting aircraft operating at these critical altitudes. The FAA has determined, therefore, to retain the current configuration of the Los Angeles TCA at 12,500 feet MSL and to continue requiring all aircraft desiring to transit this airspace to have an ATC clearance.

Finally, several commenters questioned whether the FAA complied with the requirements of administrative procedures in issuing SFAR 51 without providing prior public comment. Prior to implementation, the FAA determined that safety considerations in the Los Angeles TCA warranted immediate action. The preamble to SFAR 51 contained a finding that good cause existed for a final rule and addressed this issue adequately. The agency is still convinced that the circumstances supported an immediate rule change without prior notice. However, even though SFAR 51 was issued as a final rule, the FAA requested comments on the rule. The comments received were considered and formed the basis for this SFAR.

The Rule

This action designates a portion of the Los Angeles TCA as a Special Flight Rules Area. That portion of Area A from 3,500 feet MSL up to 4,500 feet MSL, inclusive, bounded on the north by Ballona Creek, on the east by the San Diego Freeway, on the south by the Imperial Highway and on the west by the Pacific Ocean shoreline, is designated the Los Angeles Special Flight Rules Area. In addition, this SFAR establishes specific rules for operation in this Special Flight Rules Area. In summary, the special rules do the following:

1. Limit operation to VFR. Operations in the Special Flight Rules Area are on a see-and-avoid basis and require VFR weather conditions. Special VFR operations will not be permitted.
2. Aircraft shall have the equipment as specified in FAR 91.24(b) which includes transponder with Mode C.
3. Require that pilots have the current Los Angeles Terminal Area aeronautical chart showing the Special Flight Rules Areas.
4. Require operation on the Santa Monica VOR 132° radial, in level flight, at 3,500 feet MSL for southeastbound traffic and 4,500 feet MSL for northwestbound traffic.
5. Limit airspeed to 140 knots IAS or lower.
6. Require use of anticollision and position/navigation lights and recommend use of landing lights.
7. Prohibits VFR turbojet operations in the Special Flight Rules Area, on the basis that turbojet aircraft could not operate safely within the 140 knot airspeed limitation. As mentioned previously, VFR transition routes have been established for use by other aircraft, including turbojets, at higher altitudes and airspeeds than permitted in the Special Flight Rules Area.

For the reasons discussed, below under "REGULATORY EVALUATION", the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The economic impact of SFAR 51-1 will be minimal. Many VFR pilots who, since August 19, 1987, have elected or have been required to circumnavigate the Los Angeles TCA will now be able to travel through the TCA. This should result in some degree of savings to these pilots, including fuel, wear and tear on the aircraft, and time. It is not possible to estimate these savings with any precision because specific data is not available to indicate the number of aircraft that were precluded from transiting the Los Angeles TCA; the number of those aircraft that would be able to or would choose to do so under SFAR 51-1, and the types of aircraft involved. However, the route provided in the Special Flight Rules Area for transiting the Los Angeles TCA, using the Santa Monica 132° radial, rather than circumnavigating the TCA, would reduce flight length by about 8 nautical miles. At 100 miles per hour, this converts to a savings of about 5 minutes. At 140 miles per hour the savings would be about 3 minutes. This rule will not require any actions or equipment that will result in costs over and above those already required by SFAR 51. Because some benefits accrue from the rule adopted, with no costs attributable to this rule, the FAA concludes that the benefits of the rule exceed its costs.

The Regulatory Evaluation has been placed in the public docket.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

For the reasons discussed above under "REGULATORY EVALUATION," the FAA has determined that SFAR 51-1 will not have a significant economic impact on a substantial number of small entities. Most aircraft operated by commercial entities are at present equipped to operate under IFR and, therefore, would not be impacted since they could operate in the Los Angeles TCA prior to adoption of this rule.

For these reasons, the FAA certifies that this SFAR will not result in a significant impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

List of Subjects in 14 CFR Part 91

General operating and flight rules.

Adoption of the Special Federal Aviation Regulations

For the reasons set out above, 14 CFR Part 91 is amended by adopting a new Special Federal Aviation Regulation to read as follows:

PART 91—[AMENDED]

Special Federal Aviation Regulation No. 51-1

Special Flight Rules in the vicinity of Los Angeles International Airport.

Section 1. Applicability: This rule establishes a special operating area for persons operating aircraft under visual flight rules (VFR) in the following airspace of the Los Angeles Terminal Control Area (TCA) designated as the Los Angeles Special Flight Rules Area:

That part of Area A of the Los Angeles TCA between 3,500 feet above mean sea level (MSL) and 4,500 feet MSL, inclusive, bounded on the north by Ballona Creek, on the east by the San Diego Freeway, on the south by Imperial Highway, and on the west by the Pacific Ocean shoreline.

Section 2. Aircraft operations, general. Unless otherwise authorized by the Administrator, no person may operate an aircraft in the airspace described in Section 1 unless the operation is conducted under the following rules.

a. The flight shall be conducted under VFR and only when operation may be conducted in compliance with FAR 91.105(a).

b. The aircraft shall meet the equipment requirements specified in FAR 91.24(b) replying on Code 1201 prior to entering and while operating in this area.

c. The pilot shall have a current Los Angeles Terminal Area Chart in the aircraft.

d. The pilot shall operate on the Santa Monica very high frequency omni-directional radio range (VOR) 132° radial.

e. Operations in a southeasterly direction shall be in level flight at 3,500 feet MSL.

f. Operations in a northwesterly direction shall be in level flight at 4,500 feet MSL.

g. Indicated airspeed shall not exceed 140 knots.

h. Anticollision lights and aircraft position/navigation lights shall be on. Use of landing lights is recommended.

i. Turbojet aircraft are prohibited from VFR operations in this area

Section 3. Notwithstanding the provisions of FAR 91.90(a), an air traffic control authorization is not required in the Los Angeles Special Flight Rules Area for operations in compliance with Section 2 of this SFAR. All other provisions of FAR 91.90 apply to operate in the Special Flight Rules Area.

Authority: 49 U.S.C. 1303, 1348, 1354(a), 1421, and 1422; 16 U.S.C. 106(g), (Revised Public Law 97-449, January 12, 1983).

Issued in Washington, DC, on February 2, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88-2596 Filed 2-8-88; 8:45 am]

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federal register

Tuesday
February 9, 1988

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 14 et al.

Federal Acquisition Regulation; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 37, and 52

Federal Acquisition Regulation (FAR); Options

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to Federal Acquistion Regulation (FAR) 17.208, 37.1, and 52.217-8 that would permit contracting offices to include an option provision which enables the Government to require continued performance of any services within the limits and at the rates specified in the contract.

Comments: Comments should be submitted to the FAR Secretariat at the address shown below on or before April 11, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 88-7 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Background

Award of contracts for recurring and continuing service requirements are often delayed due to circumstances beyond the control of contracting offices. Examples of circumstances causing such delays are bid protests and alleged mistakes in bid. Pending resolution of these circumstances, contracting officers are forced to negotiate short extensions to existing contracts. The various option clauses, as currently prescribed by FAR Subpart 17.2, do not accommodate this short term problem. Therefore, changes to FAR 17.208, 37.111, and 52.217-8 are being proposed to permit contracting offices to include an option provision which enables the Government to require continued performance of any services within the limits and at the rates specified in the contract. The option provision could be exercised more than once, but the total extension of performance thereunder could not exceed six months.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, because this coverage does nothing more than allow for services to be continued with the incumbent contractor until a follow-on contract can be awarded. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small business and other interested parties. Comments from small entities concerning the affected FAR Subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88-610 in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any additional recordkeeping or information collection requirements. Therefore, OMB approval under 44 U.S.C. 3501, *et seq.*, is not required.

List of Subjects in 48 CFR Parts 17, 37, and 52

Government procurement.

Dated: January 29, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 17, 37, and 52 are amended as set forth below.

1. The authority citation for 48 CFR Parts 17, 37, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 17—SPECIAL CONTRACTING METHODS

2. Section 17.208 is amended by revising paragraph (f) to read as follows:

17.208 Solicitation provision and contract clauses.

* * * * *

(f) The contracting officer shall insert a clause substantially the same as the clause at 52.217-8, Options to Extend Services, in solicitations and contracts for services when the inclusion of an option is appropriate. (See 17.200, 17.202, and 37.111.)

* * * * *

PART 37—SERVICE CONTRACTING

3. Section 37.111 is added to read as follows:

37.111 Extension of services.

Award of contracts for recurring and continuing service requirements are often delayed due to circumstances beyond the control of contracting offices. Examples of circumstances causing such delays are bid protests and alleged mistakes in bid. In order to avoid negotiation of short extensions to existing contracts, the contracting officer may include an option clause (see 17.208(f)) in solicitations and contracts which will enable the Government to require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once, but the total extension of performance thereunder shall not exceed six months.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.217-8 is amended by revising the introductory text to read as follows:

52.217-8 Option to Extend Services.

As prescribed in 17.208(f), insert a clause substantially as follows:

* * * * *

[FR Doc. 88-2676 Filed 2-8-88; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Parts 14 and 15

Federal Acquisition Regulation (FAR); Negotiation after Sealed Bidding

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing revisions to FAR 14.404-1 (c) and (e) and FAR 15.103 pertaining to negotiation after sealed bidding.

Comments: Comments should be submitted to the FAR Secretariat at the address shown below on or before April 11, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 88-6 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Background

Prior to the Competition in Contracting Act of 1984 (CICA), there were 17 negotiation exceptions. Each exception had its own authority, application, and limitations necessary to execute the exception. With the advent of CICA and the elimination of the negotiation exceptions, several of the limitations, from different exceptions, for converting from formal advertising to negotiation were combined. This had lead to confusion and protests. To overcome these problems the proposed changes make it clear that when converting an acquisition from sealed bidding to negotiation, the requirement to negotiate a price that is lower than the lowest rejected bid price of a responsible bidder applies only to acquisitions where the reasonableness of the sealed bid prices were questioned.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.* The only small businesses that would be impacted would be those that submitted a price that was determined to be unreasonable or a nonresponsive bid on an acquisition that the contracting officer decided to complete by negotiation.

C. Paperwork Reduction Act

The proposed rule does not contain information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*, as implemented by regulations prescribed within 5 CFR Part 1320. Accordingly, OMB approval of the proposed rule is not required.

List of Subjects in 48 CFR Parts 14 and 15

Government procurement.

Dated: January 29, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 14 and 15 are amended as set forth below.

1. The authority citation for 48 CFR Parts 14 and 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.404-1 is amended in paragraph (c)(6) by inserting a period following the words "bid price" and removing the remainder of the sentence; by redesignating the existing paragraphs (c)(8) and (c)(9) as paragraphs (c)(9) and (c)(10); by adding a new paragraph (c)(8); and by revising paragraphs (e)(1) and (e)(2), to read as follows:

14.404-1 Cancellation of invitations after opening.

* * * * *

(c) * * *

(8) No responsive bid has been received from a responsible bidder.

* * * * *

(e) * * *

(1) If the invitation for bids has been cancelled for the reasons specified in paragraph (c) (6), (7), or (8) of this section, and the agency head has authorized, in the determination in paragraph (c) of this section, the completion of the acquisition through negotiation, the contracting officer shall proceed in accordance with 15.103.

(2) If the invitation for bids has been cancelled for the reasons specified in paragraph (c) (1), (2), (4), (5), or (10) of the section, or for the reasons in paragraph (c) (6), (7), or (8) of this section and completion through negotiation is not authorized under paragraph (e)(1) of this section, the contracting officer shall proceed with a new acquisition.

PART 15—CONTRACTING BY NEGOTIATION

3. Section 15.103 is amended by inserting in the introductory text the words "and make award" following the work "negotiate" and by adding a second sentence to paragraph (c) to read as follows:

15.103 Converting from Sealed Bidding to Negotiation Procedures.

* * * * *

(c) * * * However, this paragraph (c) does not apply if the invitation was cancelled and all bids were rejected for the reasons stated in 14.404-1(c)(8).

[FR Doc. 88-2675 Filed 2-8-88; 8:45 am]

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federal register

Tuesday
February 9, 1988

Part IV

Environmental Protection Agency

40 CFR Part 280

Underground Storage Tanks Containing Hazardous Substances; Financial Responsibility Requirements; Advance Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 280

[FRL 3281-7]

Underground Storage Tanks Containing Hazardous Substances; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA) requires the Administrator of the Environmental Protection Agency (EPA or Agency) to establish financial responsibility requirements for underground storage tanks (USTs) containing hazardous substances and for USTs containing petroleum. On April 17, 1987, EPA proposed regulations for USTs containing petroleum. EPA is developing financial responsibility requirements for USTs containing hazardous substances. These regulations will require owners or operators to maintain evidence that funds are readily available in the event of a release from their USTs to pay for the costs of corrective action and third-party liabilities for property damage and bodily injury. In this advance notice of proposed rulemaking (ANPRM), EPA solicits comments and information about the approaches now under consideration.

DATE: EPA will accept comments submitted on or before April 11, 1988.

ADDRESS: Comments may be mailed to Docket Clerk, Office of Underground Storage Tanks, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA, and all references used in this document, may be inspected in the public docket, located in Room LG-100, 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, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: The content of Supplementary Information are listed in the following outline.

I. Statutory Authorization and Regulatory Background
II. Applicability
III. An Approach to the Rule
IV. Background Information
V. Major Issues
A. Exemptions
B. Deferrals
C. Amount of Required Coverage
D. Approaches to Setting Per-Occurrence Coverage
E. Aggregate Coverage
F. Apportioning Coverage
G. Availability of Mechanisms and Suspension of Enforcement
H. Reporting and Recordkeeping Requirements
VI. Requests for Comments
A. Profile of the Regulated Community
B. Background Information on the Probability and Costs of Hazardous Substance UST Releases
C. Applicability
D. Scope and Amount of Coverage
E. Methods of Demonstrating Financial Responsibility
F. Other Issues

I. Statutory Authorization and Regulatory Background

Subtitle I of RCRA provides for the establishment of a regulatory program for USTs [1] containing "regulated substances." Regulated substances are defined under RCRA section 9001(2) as (1) petroleum; and (2) hazardous substances listed under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA or Superfund), excluding hazardous wastes regulated under Subtitle C of RCRA (hereinafter "hazardous substances" refers only to those hazardous substances regulated under Subtitle I).

Congress enacted Subtitle I in response to evidence that releases from USTs pose a threat to human health and the environment. In particular, there is evidence that these releases are contaminating ground water, a vital natural resource and an important source of drinking water.

To diminish the incidence and magnitude of releases, Subtitle I requires EPA to develop technical requirements for USTs containing regulated substances that address release detection, prevention, and corrective action. To assure that funds are readily available to pay for the costs of release, section 9003(c)(6) requires EPA to establish "requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank."

EPA recently proposed financial responsibility requirements for USTs containing petroleum (52 FR 12786, April 17, 1987), and technical requirements for USTs containing hazardous substances (52 FR 12663, April 17, 1987). The Agency intends to propose financial responsibility requirements for USTs containing hazardous substances in the near future.

II. Applicability

EPA intends to propose financial responsibility requirements for hazardous substance USTs that are generally applicable to the same USTs that are subject to the proposed technical requirements for hazardous substance USTs. The proposed technical standards do not apply to "any UST system holding hazardous wastes that are listed or identified under Subtitle C of (RCRA), or a mixture of such hazardous waste and other hazardous substances" (52 FR 12771, April 17, 1987). The proposed hazardous substance UST financial responsibility requirements would similarly not apply to such UST systems; owners and operators of USTs containing Subtitle C harzardous waste substances are generally subject to financial responsibility requirements under the RCRA Subtitle C program (40 CFR Parts 264 and 265) and are explicitly excluded from Subtitle I regulation by section 9001(2).

The proposed technical requirements rule defines "hazardous substance UST systems" or "hazardous substance USTs" to include USTs containing "* * * a mixture of * * * [hazardous] substances and petroleum in which hazardous substances comprise greater than 50 percent of the weight or volume of the mixture" (52 FR 12771). Therefore, the proposed hazardous substance UST financial responsibility requirements would similarly apply to tanks containing a mixture of hazardous substances and petroleum in which hazardous substances comprise greater than 50 percent of the weight or volume of the mixture. Owners and operators of tanks containing both hazardous substances and petroleum in which hazardous substances comprise less than 50 percent of the weight or volume of the mixture are subject to the financial responsibility requirements proposed for owners and operators of petroleum USTs.

The Agency recognizes the difficulty of measuring concentrations and the uncertainty raised by constituents of

[1] Underground storage tanks are defined in section 9001(1) to mean "any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground." Section 9001(1)(A-I) lists tanks that are not included within the definition of "underground storage tank."

petroleum that are also hazardous substances. Therefore, in a Supplemental Notice to the UST Technical Requirements rule published in the Federal Register December 23, 1987 (52 FR 48638), the Agency is soliciting comments on whether a specific list of substances should be subject to the petroleum UST financial responsibility requirements regardless of the relative concentration of hazardous substances and petroleum within the substance listed. Under the approach described in the Supplemental Notice, the definition of "petroleum tank systems" would be changed to include any tank system containing the substances listed. "Hazardous substance tank systems" would be defined as those USTs, containing a substance or mixture of substances that is not found on the list and that also qualifies as a "regulated substance" under Subtitle I. Thus, petroleum substances not included on the list might be subject to hazardous substance financial responsibility requirements. The Agency is currently seeking comments and data on the appropriateness of such an approach and the contents of the list.

III. An Approach to the Rule

The Agency does not address every potential provision of a forthcoming proposed rule in this advance notice, but it welcomes comment on any aspect of such a rule. The primary issues about which EPA requests comments today are:

- Exemptions;
- Deferrals;
- Amount of coverage;
- Per-occurrence coverage;
- Aggregate coverage;
- Apportioning coverage;
- Availability of mechanisms; and
- Reporting and recordkeeping.

EPA expects that many of the approaches it discussed in the proposed rule for petroleum USTs are also appropriate for USTs containing hazardous substances. For example, EPA does not expect that the allowable mechanisms and the terms of those mechanisms for hazardous substances USTs will be different from those for USTs containing petroleum. In both cases, EPA recognizes that at least intitially, insurance availability will be very limited, and the Agency intends to allow a broad range of mechanisms that provide a high level of assurance that these costs are covered. In addition to the mechanisms authorized by section 9003(d) (i.e., insurance, guarantee, surety bond, letter of credit, self-insurance) in the proposed rule for petroleum USTs, EPA would allow the use of an indemnity contract and an adequate State fund to cover these costs.

EPA also expects to provide a limited number or exemptions under both rules for entities that possess adequate capability to pay for corrective action and liability costs. EPA will consider the comments it received about these issues for USTs containing petroleum in developing a proposal for USTs containing hazardous substances.

In other respects, however, this rule may differ from the rule for USTs containing petroleum. Because the costs of responding to and cleaning up releases may be different for hazardous substance USTs than for petroleum USTs, the amounts of coverage and the methods used to determine the amount of coverage may differ from the proposed rule for petroleum USTs. Because the regulated community of hazardous substance USTs is much smaller than petroleum USTs and the dangers to human health and the environment associated with releases may vary with the substance released, EPA is considering whether it is appropriate to adopt different reporting requirements for owners and operators of USTs containing hazardous substances.

These issues are discussed in more detail below. Following a discussion of background information and of the major issues of the future proposed rule, a separate requests comment about these issues.

IV. Background Information

The available data about hazardous substance USTs and the regulated community is limited. The California UST database, developed from the California UST registration data, provides the most complete information on the population of USTs containing hazardous substances that is available at this time.[2]

Based on projections from California's UST population, EPA believes that there could be as many as 54,000 USTs containing hazardous substances at 21,000 facilities throughout the United States and as few as 33,000 hazardous substance USTs located at 11,400 facilities in the United States. Using the maximum estimate of 54,000, EPA estimates an average of 2.6 hazardous substance USTs per facility.[3]

Based on an extrapolation of the California data, and using the maximum estimate of 54,000 facilities, Table 1 presents the number of hazardous substance USTs and facilities by industry sector. Hazardous substance USTs are commonly owned by firms involved in producing, distributing, and selling chemicals. In California, 25 percent of all hazardous substance USTs are located at facilities owned by firms that are engaged in these activities. Based on the California data, EPA believes that many firms that own hazardous substance USTs also own petroleum USTs. In California, approximately 30 percent of all firms owning hazardous substance USTs also own petroleum USTs.[4]

TABLE 1

Sector	Number of USTs	Number of facilities
Manufacturing	27,000	8,000
Wholesale and Retail Trade	14,000	6,000
Services	3,000	1,500
All Other Private Sectors	6,000	3,000
Federal Government	2,000	500
State & Local Government	2,000	2,000
Total	54,000	21,000

The California data also indicate that both large and small firms store hazardous substances in USTs. In California, 30 percent of hazardous substance USTs are owned by firms that are publicly held. However, hazardous substance USTs are also owned by small firms such as dry-cleaning firms, paint stores, chemical wholesalers, and petroleum marketers.[5]

In California, 56 percent of all hazardous substance USTs contain organic chemicals and 44 percent contain inorganic chemicals. The California data,[6] New York State tank

[2] Data Resources, Inc., *Underground Storage Tanks Technical Data Collection*, prepared for the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, October 1985.

[3] Data Resources, Inc., *Underground Storage Tanks Technical Data Collection*, prepared for the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, October 1985. The high estimates are based on those USTs in the California database that DRI classified as certain to contain regulated substances, those USTs for which information was insufficient to determine the regulatory status of the contents, and a proportionate share of USTs with unknown contents. The low estimates are based on those USTs in the California database that DRI classified as certain to contain regulated substances and a proportionate share of USTs with unknown contents.

[4] Meridian Research, Inc., *Characterization of Hazardous Substance Underground Storage Tanks Based on the California Data Base*, prepared for the Office of Underground Storage Tanks, U.S. Environmental Protection Agency, April 1987.

[5] *Ibid.*

[6] *Ibid.*

registration data,[7] and a Chemical Manufacturers Association (CMA)[8] survey show that ketones, aromatic hydrocarbons, and organic alcohols account for the contents of more than 50 percent of all USTs containing organic hazardous substances.[9] Like gasoline, these substances are probably stored underground because of their high ignitability and vapor pressure, properties that present fire and explosion hazards. For this reason, it may be difficult for owners of tanks containing these substances to move them above ground. Chlorinated hydrocarbons and organic halides are types of organic chemicals that are also commonly stored in USTs. The majority of the inorganic chemicals stored in USTs in California are highly reactive compounds such as strong acids (sulfuric and nitric acid) and bases (sodium hydroxide is the second most common chemical in California hazardous substance USTs). About 15 percent of all hazardous substance USTs in California store metals and metal salts (presumably in solutions and mixtures). According to the CMA survey, chemical producers rarely store inorganic chemicals in USTs. This suggests that the practice of storing inorganic chemicals in USTs may be limited primarily to chemical users.[10]

V. Major Issues

A. Exemptions

Under the proposed rule for petroleum USTs, State and Federal owners or operators would be exempt from the financial responsibility requirements. In the preamble to the proposed rule (52 FR 12796), the Agency explained that,

> [B]ecause Federal and State government entities are permanent and stable institutions, they have the requisite financial strength to cover the costs of taking corrective action and compensating third parties. In addition, these government entities have an incentive to meet corrective action and third-party liability obligations in a timely manner—since one reason they exist is to safeguard health and welfare. For these reasons, the Agency believes that it is not necessary to develop a financial test or other requirements for Federal and State government entities and thus exempts these entities from the financial responsibility requirements.

Because this reasoning applies whether USTs contain hazardous substances or petroleum, the Agency probably will propose to exempt State and Federal government entities that own or operate USTs containing hazardous substances from the financial responsibility requirements.

EPA is considering whether local government entities should be exempt from financial responsibility requirements. Under the proposed financial responsibility requirements for the owners and operators of petroleum-containing USTs, local government entities would not be exempt from financial responsibility requirements. In deciding whether local government entities should be exempt from financial responsibility requirements for USTs containing hazardous substances or petroleum (in the development of the final financial responsibility rules for petroleum USTs), EPA will consider:

- The permanence and stability of these entities, and
- The financial strength of these entities. EPA will also consider developing a financial test that local government entities could use to demonstrate financial strength.

The proposed financial responsibility rule for USTs containing petroleum did not specifically address whether Indian tribes should also be subject to financial responsibility requirements. The Agency is considering the applicability of these requirements to Indian tribes as well.

B. Deferrals

EPA deferred proposing certain requirements[11] for the following categories of UST systems in the technical requirements rule: (1) Wastewater treatment tanks, (2) sumps, (3) UST systems containing used oil, (4) underground bulk storage tanks, (5) UST systems containing radioactive waste, (6) UST systems containing electrical equipment, and (7) hydraulic lift tanks.

EPA did not propose financial responsibility requirements for any categories of USTs that it deferred under the technical requirements because the information necessary to decide whether these types of tanks should be subject to the same per-occurrence and aggregate coverage requirements as other petroleum USTs was not available. In deciding whether or not to defer proposing financial responsibility requirements for these or other categories of hazardous substance USTs (e.g., underground bulk storage tanks containing hazardous substances, UST systems containing radioactive waste and other radioactive materials), EPA will consider whether there is enough information available to make decisions about appropriate per-occurrence and aggregate levels of coverage.

C. Amount of Required Coverage

Per-occurrence levels of coverage cover the costs of one release, whereas aggregate levels of coverage cover the costs of more than one release (from either the same UST or from several USTs). Per-occurrence levels are based on the projected costs of a release; aggregate levels are based on projected costs *and* the probabilities of multiple releases.

To determine the appropriate per-occurrence and aggregate amounts of coverage for USTs containing hazardous substances, the Agency is gathering and anaylzing data on corrective action and third-party compensation costs associated with hazardous substance UST releases and on the probabilities that releases with various levels of cost will occur. Finally, the Agency is also considering the effect that compliance with the technical requirements may have on future release probabilities and costs. In particular, the new tank performance standards and the upgrade requirements should greatly reduce the probability of release from hazardous substance USTs.

The distribution of the costs of corrective action and compensation of third parties resulting from hazardous substance UST releases, like the costs of all types of accidents, will be highly skewed. Although the vast majority of releases can be expected to have relatively low costs, a limited number of releases will have costs that are many times the costs of a typical release. Because per-occurrence levels of coverage high enough to cover the costs of all, or almost all, releases would have to be prohibitively high, and because high-cost releases contribute disproportionately to the total costs of corrective action and compensation of third parties in any given year,[12] EPA intends to adopt a safety criterion to determine coverage levels. A safety criterion could cover the costs of a certain percentage of releases or cover a

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[7] Lysyj, Environmental Monitoring and Services, Inc., and Hillger, Farlow, and Field, U.S. Environmental Protection Agency, *A Preliminary Analysis of Underground Storage Tanks Used for CERCLA Chemical Storage*, May 1987.

[8] *Ibid.*

[9] *Ibid.*

[10] *Ibid.*

[11] EPA did not defer proposing requirements for corrective action and the interim prohibition for new tank systems.

[12] In developing the proposed per-occurrence level of coverage for petroleum containing USTs, the Agency estimated that the average corrective action and third-party compensation costs of releases from these USTs are almost $80,000. The Agency also found that fewer than 1 percent of petroleum UST releases had costs exceeding $1,000,000 amd 0.1 percent of releases had costs exceeding $10,000,000. However, the less than 1 percent of all releases with costs exceeding $1,000,000 accounted for almost 28 percent of all petroleum UST corrective action and third-party compensation costs.

certain percentage or dollar amount of the costs of all releases.

Existing Cost Information

The Agency currently is examining available information concerning releases of hazardous substances from USTs. As shown in Table 2, historical cost data indicate that corrective action costs for a release of one or more hazardous substances from an UST may be significantly greater than costs associated with a release of petroleum. These figures are based on 23 incidents of petroleum releases from USTs and 18 incidents of hazardous substance releases from USTs tracked and documented by EPA Regions. [13]

TABLE 2—CORRECTIVE ACTION COSTS IN DOLLARS

	Low	High	Average
Petroleum	500	500,000	36,600
Hazardous Substances	2,000	2,230,000	193,000

EPA believes that these data are not necessarily representative of the typical costs associated with corrective action for hazardous substance releases from USTs. These historical data deal largely with releases that have been addressed by EPA's response program under CERCLA. Such releases may be more severe and consequently have higher costs than UST hazardous substance releases in general. In addition, the costs of corrective action for UST releases of certain types of hazardous substances may typically be equivalent to or less than the costs associated with petroleum UST releases.

Once ground water has been contaminated by an UST release, regardless of whether it is by petroleum or one or more hazardous substances, total corrective action costs are likely to increase significantly. According to the data summarized in Table 2, about 80 percent of the releases of hazardous substances from USTs contaminated groundwater; whereas about 60 percent of releases of petroleum from USTs contaminated groundwater. [14] Thus, the apparent higher costs of corrective action for hazardous substance releases than for petroleum releases may be attributed partially to a greater tendency for hazardous substance releases to contaminate ground water prior to release detection.

The Agency also is examining the revelance of a stochastic computer model to project the costs of corrective action for USTs containing industrial wastes (including hazardous substances, hazardous wastes, and petroleum wastes). Based on the model projections, the costs of cleaning up releases from these USTs appear to be slightly higher than the costs for USTs containing petroleum. According to the model, cleanup costs incurred for releases from USTs used to store industrial wastes average approximately $100,000. [15] Analysis of a model projecting costs of releases from petroleum USTs for corrective action, weighted by the relative frequencies of each type of action, indicate that the expected corrective action cost for petroleum UST releases is $69,000, not including the costs of tank removal and disposal. [16]

The available data indicate that third-party liability costs for USTs containing hazardous substances may be higher than for USTs containing petroleum. According to a model projecting third-party liability claims for industrial wastes, third-party liability costs are projected to range up to $7.5 million. [17] Based on the claims experience of the two largest insurers of USTs containing petroleum, only 2 to 4 percent of identified UST release incidents involving petroleum resulted in third-party damage claims and none of the claims involving petroleum UST released in recent years have exceeded $1 million.[18] However, an EPA sponsored study found that 23 percent of third-party damage claims involved awards of more than $1 million. [19] Because of the methodology used in this study to obtain information about these claims (i.e., reviewing decisions in cases reaching the appellate level; searching product liability, environmental, and trial law publications for information on ongoing lower court cases; and settlement information available from State and local contacts), the study could over-represent the percentage of third-party liability claims for which awards of more than $1 million were granted. This may result because cases that were easily settled would not be available from these sources. The lack of available data for hazardous substance releases precludes any firm conclusion from being drawn at this date. Thus, the Agency is uncertain what per-occurrence and aggregate coverage amounts it will propose.

D. Approaches to Setting Per-Occurrence Coverage

The Agency is considering setting uniform per-occurrence amounts or, in the alternative, establishing coverage amounts on the basis of risk. Risk based coverage amounts could vary according to the following factors that may account for different costs associated with releases: (1) Type of hazardous substance, (2) site-specific and/or UST characteristics, and (3) hazardous substance and site-specific characteristics. The primary reason for varying minimum coverage amounts is to account for the overlapping, potentially cost determining factors involved.

Uniform Amount of all Hazardous Substance USTs

Under a uniform approach, the Agency would set the same amount of coverage for all hazardous substance USTs. If a uniform approach is adopted, the amount of coverage required may be more or less than the $1 million per-occurrence coverage proposed for USTs containing petroleum. The Agency currently is assessing whether hazardous substances may result in different cleanup and liability costs than petroleum.

In general, the advantage of a uniform coverage approach may be: (1) An UST owner or operator could easily determine the required amount of coverage; (2) EPA and States could easily monitor compliance because they would need only to identify the number of tanks covered by each owner or operator to determine whether sufficient coverage was demonstrated; and (3) this approach would be relatively easy to develop. A major disadvantage of the uniform coverage approach is that it would not recognize the potentially wide variation in the costs associated with releases from different hazardous substance USTs.

[13] Technical Assistance Team, U.S. Environmental Protection Agency, *UST Corrective Actions and Costs: Regional Survey Report*, TDD No. 138503-11A, September 4, 1985.

[14] *Ibid.*

[15] SCS Engineers, "Underground Industrial Waste Tank Releases, The Magnitude of the Problem—Cleanup and Liability Cost Estimating Model," from *Proceedings of the Eighteenth Mid-Atlantic Industrial Waste Conference*, 1986.

[16] U.S. Environmental Protection Agency, *Regulatory Impact Analysis for Proposed Technical Standards for Underground Storage Tanks*, prepared by Sobotka & Co., Inc., March 30, 1987.

[17] SCS Engineers, *supra* note 15.

[18] U.S. Environmental Protection Agency, *Supporting Document for Proposed Financial Responsibility Requirements for Underground Storage Tanks Containing Petroleum*, prepared by ICF Incorporated, March 1987.

[19] ICF Incorporated, *Tort Liability Due to Release from Underground Storage Tanks at Service Stations*, prepared for Office of Policy, Planning and Evaluation, U.S. Environmental Protection Agency, June 15, 1984.

Amounts That Vary by Type of Hazardous Substance and/or UST Characteristics

The potential threats to human health and the environment posed by the types of substances stored in hazardous substance USTs may vary widely. For example, substances may present hazards because of their reactivity, flammability, or potential to cause acute or chronic health effects. An EPA study classified the substances stored in USTs into three groups according to three broad types of hazards: (1) Toxicity/solubility for threats to ground water, (2) toxicity/vapor pressure for threats to human health from vapors, and (3) ignitability/vapor pressure for fire and explosion risks. [20] Petroleum products fell in the middle of all three categories with respect to degree of hazard. That is, there were hazardous substances stored in USTs that were both more and less hazardous than petroleum in all three hazard groups.

As the degree of risk within an otherwise similar group of substances increases, costs associated with corrective action and third-party compensation are likely to increase. The former would increase because of lower target cleanup concentrations, and the latter because of the increasing potential for adverse health and environmental effects. If EPA determines that the costs of releases can be linked to certain characteristics of the substances stored in USTs, then the Agency could rank and classify USTs according to these characteristics, and set coverage levels on the basis of a categorization of substances. [21]

When USTs contain more than one substance, the per-occurrence amount of coverage for each UST could be based on: (1) The highest ranked substance stored in the USTs; or (2) a summation of weighting of the rankings of the different hazardous substances stored in the USTs. The easiest method to determine coverage amounts when more than one substance is present is to require coverage for the highest ranking substance in the UST. However, if hazardous substances are present in only *de minimis* concentration, the required amounts of coverage could be higher than the anticipated costs associated with a particular UST. Nevertheless, this approach may still be more accurate than the uniform approach.

For any given hazardous substance, the concentration and volume will generally have a direct effect on costs associated with a release. Under the second method, a score could be set for different concentrations of each hazardous substance or classes of hazardous substances. An owner or operator could use these scores and a simple formula to determine a total score for each UST. The per-occurrence coverage amount could then be obtained from a table that matches dollar amounts with various scores.

The major advantage of the hazardous substance ranking classification approach is that the amount of coverage would better reflect the likely costs of a release. Compared to the uniform coverage approach, however, owners and operators might have increased administrative costs (e.g., keeping records of substances stored and their concentrations). In addition, detecting noncompliance might be more difficult for EPA and States because they would have to review information on the hazardous substances stored in tanks. Moreover, in some situations, it may be difficult for EPA to classify the hazards posed by the substance in a hazardous substance UST. This might be the case with some mixtures, which can be either less or more hazardous than their pure components, depending on the proportion of the ingredients in the mixture. Another classification problem may arise with USTs that are used to store a series of different substances over the course of a year.

Amounts That Vary By UST Characteristics

The Agency is also considering categorizing USTs according to UST characteristics if the evidence indicates that UST characteristics are the best indicators (or in combination with other factors) of the costs of releases. For example, evidence acquired to date indicates that the likelihood of a release to the environment, and the risk that a release will go undetected, are greatly diminished by the presence of secondary containment and effective monitoring for releases. The proposed technical rule would require the most protective tank standards for hazardous substance UST systems, including both secondary containment and interstitial monitoring. These could reduce costs associated with hazardous substance releases by several orders of magnitude.

EPA believes that although USTs presently used for storing hazardous substances, like those used for storing petroleum, vary widely in age, material of construction, and size, technical requirements for upgrading will ensure that future hazardous substance USTs will be more uniform. Consequently, the Agency is considering whether it may be appropriate to recognize the efforts of owners or operators of hazardous substance USTs who have complied with the technical requirements by retrofitting or upgrading their USTs. For example, the proposed new tank performance standards and the upgrade requirements should reduce the probability of release from hazardous substance USTs in the future. As a result, the probability of exceeding any given aggregate amount should be less for these USTs. An incentive system might operate by allowing owners and operators to reduce their required aggregate amount for each UST that they have retrofitted or upgraded.

Amounts That Vary by Site and/or Type of Substance

The Agency could establish risk based categories or a scoring system that considers both the type of hazardous substance stored and site-specific characteristics. For example, the presence and vulnerability of public water supplies could drive up costs associated with a hazardous substance release several orders of magnitude. In addition to proximity to and vulnerability of a drinking water supply, site-specific factors, such as ground-water conditions, soil conditions, and climate, may significantly affect the magnitude of potential corrective action and third-party liability costs. The Agency could establish categories or a scoring system using one or more of these factors and require amounts of financial responsibility that vary by category or score. Under this approach, each owner or operator would be required to identify the appropriate classifications or scores for each UST and thereby determine the required amount of coverage.

The major advantage of this approach is that the required amounts of financial responsibility may better reflect potential release costs. Likewise, the major disadvantages with this approach may be: (1) Potential difficulty or costs

[20] Camp, Dresser and McKee, Inc., *Fate and Transport of Substances Leaking from Underground Storage Tanks*; prepared for the U.S. Environmental Protection Agency, January 1986.

[21] Two studies that rank UST hazardous substances by the risks they present are: (1) ICF Incorporated, *Feasibility Study; Risk-Based Ranking of Chemicals in USTs*, prepared for Office of Policy, Planning and Evaluation, U.S. Environmental Protection Agency; September 1986; (2) Camp Dresser & McKee Incorporated, *Interim Report; Fate and Transport of Substances Leaking from Underground Storage Tanks*, prepared for Office of Underground Storage Tanks, U.S. Environmental Protection Agency, January 1986. In addition, virtually all hazardous substances have been classified for purposes of reporting under CERCLA. The extensive analysis supporting the development of CERCLA reportable quantities (RQs) may be especially useful for purposes of setting the amounts of coverage.

to the owner/operator associated with identifying site-specific characteristics, (2) difficulty of detecting noncompliance, and (3) difficulty developing the approach.

E. Aggregate Coverage

An annual aggregate level of coverage is defined as the total amount of funds that must be available in a single year to cover the corrective action and third-party compensation costs arising from hazardous substance releases from the USTs covered under an assurance mechanism or combination of mechanisms. These costs may arise as a result of multiple releases from a single UST, releases from more than one UST at one facility, or releases from USTs at many facilities. The annual aggregate level of coverage sets an upper limit on the amount of funds that must be provided that is independent of the per-occurrence limit; once the aggregate level of coverage provided by a financial mechanism is reached, the mechanism will not cover the costs of a new release even if these costs are lower than the per-occurrence limit.

The proposed financial responsibility requirements for petroleum containing USTs proposes a schedule of required aggregates that is based on the number of tanks to be covered.[22] With the exception of the $1 million level of coverage for 12 or fewer tanks, the aggregate levels were proposed to ensure that the sum of corrective action and third-party compensation costs for all USTs covered would not be exceeded more than 1 percent of the time. This means that if 100 firms have aggregate levels of coverage conforming to the above schedule, then no more than one of these firms will on average incur corrective action and third-party compensation costs exceeding the scheduled aggregate in any given year.

In the proposed rule for USTs containing petroleum, the Agency based aggregate coverage amounts on the number of USTs covered by each owner or operator, regardless of whether the USTs were located at one facility or at several facilities. The Agency assumed that the incidence of releases from different USTs covered by the same owner or operator was statistically independent. The Agency expects to propose aggregate coverage amounts for USTs containing hazardous substances based on the number of USTs covered by each owner or operator; however, if the evidence suggests that the probability of releases from the same facility is not statistically independent, the Agency may also consider basing aggregate coverage on the number of facilities.

The Agency will also consider whether aggregate requirements should take account of such risk factors as the type of hazardous substance stored, the characteristics of the USTs containing hazardous substances, and the location of these USTs. These factors are especially important for the approaches that vary per-occurrence coverage amounts according to these characteristics. For example, if EPA adopts a hazardous substance classification approach, the aggregate amount of coverage could be based on the number of USTs and their required per-occurrence levels of coverage. Examples of methods to implement this approach are as follows:

- Require the aggregate coverage level for a single tank to be no lower than the highest per-occurrence level required for any individual UST.
- Assign a schedule of aggregate values to USTs, based on the per-occurrence levels of coverage required.

Whatever approach is used to determine an appropriate aggregate requirement, the Agency is concerned about situations in which a financial mechanism may be used to cover hazardous substance USTs, other USTs, and other types of facilities posing environmental and human health hazards. For example, firms may wish to cover both petroleum and hazardous substance USTs with a single financial assurance mechanism. If this situation is likely to arise, then the Agency may have to consider the best approach to combining aggregate requirements for these two purposes. Similarly, firms may wish to use a single mechanism (e.g., insurance) to demonstrate financial assurance for their hazardous substance USTs as well as to cover potential liabilities associated with the operation of other types of facilities on the premises that pose environmental or health risks (e.g., above-ground tanks, surface impoundments, wastewater treatment systems, etc.). In this situation, EPA must ensure that sufficient funds are available to cover corrective action and third-party compensation costs arising from hazardous substance UST releases. The Agency might consider requiring separate aggregate limits for hazardous substance USTs, or requiring financial instruments with higher aggregate limits when facilities other than hazardous substance USTs are also covered bv the instrument.

F. Apportioning Coverage

EPA is considering the possibility of requiring separate amounts of coverage for corrective action costs and third-party liability claims. This option would allow the Agency to combine the various approaches discussed previously. For example: (1) One uniform amount could be set for corrective action and another amount for liability coverage; (2) hazardous substances could be grouped separately for corrective action and third-party compensation costs; and (3) corrective action coverage could vary by hazardous substance, while third-party compensation coverage could be uniform.

In the proposed rule for USTs containing petroleum, EPA decided not to apportion coverage for the following reasons:

- Based on the data available to the Agency, it is difficult to predict the relative amount of funds needed for these two types of costs; such data only become available when an actual petroleum release occurs.
- It may be difficult to make a distinction between these two types of costs in cases involving third-party compensation for property damage. For example, the costs of cleaning up petroleum release effects outside the boundaries of an owner's facility can be corrective action costs, or, if an owner is sued by a third party for property damage, these expenses can be third-party compensation costs.
- Neither the statute nor the legislative history suggests Congressional intent to apportion the financial assurance coverage between corrective action and third-party compensation costs.

For the same reasons, the Agency may choose not to apportion required per-occurrence and aggregate coverage amounts between corrective action and compensation of third parties in the proposed financial responsibility rule for the owners and operators of hazardous substance USTs. However, EPA will also look into the percentage of hazardous substance UST releases that involve compensation of third parties. If it is much more than the 2 to 4 percent typical for petroleum UST releases, apportionment of coverage may be necessary to ensure that EPA fulfills its responsibility to make funds available for the compensation of third parties.

[22] The aggregate coverage in the proposed rule is: 1–12 tanks—$1,000,000 annual aggregate; 13–60 tanks—$2,000,000 annual aggregate; 61–140 tanks—$3,000,000 annual aggregate; 141–250 tanks—$4,000,000 annual aggregate; 251–340 tanks—$5,000,000 annual aggregate; and 341 or more tanks—$6,000,000 annual aggregate.

C. Availability of Mechanisms and Suspension of Enforcement

In the proposed rule for USTs containing petroleum, EPA considered a variety of mechanisms in addition to the mechanisms authorized by statute. However, the Agency proposed only those mechanisms it believed would provide adequate protection. EPA believes that the mechanisms it allowed in the proposed rule for USTs containing petroleum are appropriate mechanisms for USTs containing hazardous substances.

Under the proposed rule, owners or operators may show financial responsibility by demonstrating that they can pay for the costs of releases themselves (i.e., a financial test of self-insurance), or by securing a financial assurance mechanism specified by the proposed rule. In addition, owners or operators in States that have established State funds or other State assurances to cover the costs of corrective action and third-party compensation may not need to otherwise demonstrate financial responsibility.

Under the proposed rule, owners or operators may pass a financial test of self-insurance if (1) they have a tangible net worth of at least $10 million, and (2) they have a tangible net worth at least ten times the annual aggregate amount, and (3) they must file annual financial statements with the Securities Exchange Commission *or* have a Dun & Bradstreet rating of 4A or 5A. The proposed rule allows the following mechanisms for coverage: (1) Insurance, (2) risk retention group coverage, (3) a guarantee, (4) an indemnity contract, (5) a surety bond, (6) a letter of credit, and (7) a mechanism allowed by a State program.

In cases in which owners or operators may be subject to other financial assurance requirements, EPA will attempt to coordinate the financial responsibility program for USTs containing hazardous substances with other financial responsibility programs. For example, EPA may allow owners or operators to use a mechanism that they have secured under another program to satisfy their requirements for USTs, provided that the mechanism is one authorized for use by the financial responsibility requirements, and provides that the coverage amount required by the rule will be available only for corrective action and third-party claims.

Although EPA intends to allow owners and operators of hazardous substance USTs to use a wide variety of mechanisms to demonstrate evidence of financial responsibility, the Agency recognizes that, especially in the early phases of program implementation, many owners and operators probably will be unable to obtain financial assurance mechanisms.

The Agency expects that insurance will be the mechanism of choice for most hazardous substance UST owners and operator. However, insurance covering corrective action and compensation of third parties for damages caused by releases from hazardous substance USTs may not be available to many of the owners or operators who wish to buy it. In addition, the insurance available to owners and operators of hazardous substance USTs may not be sufficient to satisfy the Subtitle I requirement that evidence of financial responsibility be maintained for taking corrective action.

The Agency knows of no insurance policies specifically intended to provide this coverage. Some hazardous substance USTs currently are covered by insurance under environmental impairment liability (EIL) policies, which generally cover third-party compensation for bodily injury and property damage arising from a variety of operations of a facility (e.g., a refinery) that may pose an environmental or human health hazard. These insurance policies generally do not provide coverage for cleanup or property damage at the insured's location. Some hazardous substance USTs may be covered under comprehensive general liability (CGL) policies for third-party compensation for bodily injury and property damage and for government-ordered cleanup at the insured's location, particularly if these policies have endorsements adding these coverages. Like EIL insurance policies, CGL policies are generally written to cover entire plants for several types of pollution risks; these policies are not designed to cover the specific risks posed by releases from hazardous substance USTs. Some hazardous substance USTs owned by petroleum marketers may be insured for corrective action and third-party compensation by the pollution liability policies that cover their petroleum USTs.

In general, current EIL and CGL insurance policies have several disadvantages as financial assurance instruments to cover corrective action and compensation of third parties for damages caused by releases from hazardous substance USTs.

- These policies are written for entire facilities and not specifically for hazardous substance USTs.
- These policies generally do not cover on-site clean-up, or this coverage may be available only at the option of the insurer.
- These policies may require the insured to carry a high self-insurance retention (i.e., a deductible). Financial assurance instruments may not be available to cover self-insurance retention amounts.

Comments received on the proposed financial responsibility rule for petroleum USTs indicate that there are some serious limitations on insurance availability. While information submitted indicates that approximately 27 percent of petroleum retailers currently have insurance coverage for their USTs, some of these insurance policies will not be renewed. In addition, there are segments of the petroleum UST regulated community that may not be able to obtain insurance currently. These include small retailers and owners/operators who are not involved in petroleum refining or retailing. However, the Agency received information that some efforts are underway to form risk retention groups to provide insurance coverage and to establish State funds for UST financial assurance. In addition, promulgation and implementation of the technical standards for USTs should increase the predictability of risks associated with providing financial assurance for USTs. The Agency anticipates that over time, insurance and State funds will become more widely available to cover UST releases.

For these reasons, EPA will consider whether suspension of enforcement could encourage the further development of the insurance market or otherwise relieve the regulatory burden on hazardous substance UST owners and operators who make all reasonable efforts to obtain financial assurance mechanisms.

Pursuant to its authority under section 9003(d)(5)(D), EPA is considering suspending enforcement for certain categories or classes of tanks. If the Agency suspends enforcement for hazardous substance USTs, EPA may adopt the same approach for this rule that it adopted for petroleum USTs. That is, instead of defining those classes or categories of USTs eligible for suspension, UST owners would form classes and file for suspensions. As an alternative, the Agency could determine in advance those classes of USTs eligible for suspension. At this date, the Agency has not considered what classes of tanks might be eligible for suspension if it suspends enforcement for certain USTs.

H. Reporting and Recordkeeping Requirements

Under the proposed rule for USTs containing petroleum, owners or operators must maintain records of their compliance with the financial responsibility requirements at the site of the UST or at their place of business. They are not required, however, to file copies of any records with EPA except in the following circumstances: (1) They install a new UST; (2) they suspect or identify a release; or (3) their provider of financial assurance has filed bankruptcy or cancelled their coverage, and they are unable to secure other coverage.

EPA is considering similar reporting and recordkeeping requirements for owners or operators of USTs containing hazardous substances. The Agency is also examining whether it is appropriate to propose different reporting requirements.

More stringent reporting requirements for USTs containing hazardous substances may be appropriate because many hazardous substances are hightly toxic, and it might be necessary to establish closer Agency oversight. In addition, the administrative burden of EPA and States will be less significant because there are considerably fewer underground storage tanks containing hazardous substances than underground storage tanks containing petroleum.

VI. Requests for Comments

EPA welcomes information and comment about all the issues addressed in today's advance notice and about any other aspect of the rule.

A. Profile of the Regulated Community

1. What industry sectors use hazardous substance USTs and how essential are USTs to owners and operators in each of these sectors?

2. What is the estimated total number of hazardous substance USTs for all sectors? What types of hazardous substances are stored in these USTs?

3. How many firms and facilities, by industry sector, have hazardous substance USTs?

4. How many firms and facilities have both hazardous substance USTs and petroleum USTs, by industry sector?

5. How many firms and facilities have hazardous substance USTs and hazardous waste treatment, storage, or disposal facilities (TSDFs) (that already have financial assurance coverage for third-party liability)?

B. Background Information on the Probability and Costs of Hazardous Substance UST Releases

1. How does the Probability of releases for hazardous substance USTs compare with the probability of releases for petroleum USTs?

2. How do the primary determinants of costs for hazardous substance UST releases compare with the primary determinants of costs for petroleum UST releases? For example, what is the importance of location of a release, the nature of the substance released (e.g., with regard to toxicity, detectability, and other properties) and other factors such as size of tank, throughput, quantity released, tank material of construction, etc.?

3. How do the total costs of hazardous substance UST releases compare with the total costs of petroleum UST releases?

4. What percentage of hazardous substance UST releases involve compensation of third parties? Is it more than the 2 to 4 percent typical for petroleum UST release incidents?

5. What will be the effect on future costs of releases of promulgating more stringent technical standards for USTs containing hazardous substances than for USTs containing petroleum (e.g., requiring secondary containment with interstitial monitoring for hazardous substance USTs)?

C. Applicability

1. Are exemptions appropriate for Federal and State governments? Indian tribes? Local governments?

2. How many of the above government entities own or operate USTs containing hazardous substances?

3. How many of the tanks owned by government entities are operated by private parties?

4. Have government entities paid for the costs of corrective action and third-party claims in a timely manner?

5. Are there any categories of tanks, in addition to those categories deferred from regulation under the proposed financial responsibility rules for petroleum USTs, that merit special investigations?

D. Scope and Amount of Coverage

1. EPA requests comment about the approaches to setting coverage amounts that it is considering, including the availability of the data required to comply with these approaches. For example, do owners or operators currently keep records of when they change the contents of their tanks? If records currently are not kept, will it be difficult to gather these data? Do owners or operators have data available to comply with a site-specific approach? If not, how difficult will it be for them to gather this information?

2. Should the same criterion used to develop the per-occurrence limit for petroleum USTs (i.e., that the limit cover costs in 99 percent of all occurrences) be used to develop the per-occurrence limits for hazardous substance USTs?

3. Should the same criterion used to develop the annual aggregate limits for petroleum USTs (i.e., that the annual aggregate limits cover costs 99 percent of the time) be used to develop the annual aggregate limits for hazardous substance USTs?

4. How should per-occurrence and aggregate limits be set when firms own both hazardous substance and petroleum USTs?

5. Should required coverage amounts be apportioned between corrective action and compensation of third parties?

6. Should better design and locational factors affect financial responsibility coverage amounts?

E. Methods of Demonstrating Financial Responsibility

1. What financial assurance mechanisms are available to the owners and operators of hazardous substance USTs?

2. How many hazardous substance USTs in each affected sector are currently covered by insurance?

—What does this insurance cover?

—Are on-site cleanup or legal defense costs included?

—How much does this insurance cost?

—What factors go into determining premium costs? Are premium costs related to site-specific factors or to the type of substance stored?

—Must a site assessment be conducted to obtain coverage?

—How much do these assessments cost?

—Are there any other requirements for obtaining coverage (e.g., tank age limits, certain inventory control practices)?

—Do insurance companies impose any recordkeeping requirements on owners or operators?

—How can EPA determine the adequacy of coverage limits when an insurance policy covers USTs and other hazards within the same policy limits? (For example, a policy covers pollution liability from USTs and from all other aspects of the operation of several plants.)?

3. Should the Agency allow the same financial assurance mechanisms to be used to satisfy financial assurance requirements for hazardous substance and petroleum USTs and other types of facilities (i.e., TSDFs and underground injection wells)?

4. If so, should coverage amounts be apportioned and should coverage be set on a per-facility or a per-UST basis?

5. How should the proposed hazardous substance UST regulations address potential problems related to the availability of mechanisms?

6. How might EPA recognize the efforts of UST owners and operators to comply with these regulations?

F. Other Issues

1. How should requirements with regard to reporting, recordkeeping, cancellation of coverage, etc., be different for the mechanisms used to demonstrate evidence of financial responsibility for hazardous substance USTs from the mechanisms for petroleum USTs?

2. The agency requests comments on the need for different reporting and recordkeeping requirements and what requirements would be appropriate.

A. James Barnes,

Acting Administrator.

Date: February 2, 1988.

[FR Doc. 88-2690 Filed 2-8-88 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday,
February 9, 1988

Part V

Department of Education

Rehabilitation Long-Term Training Program; Inviting Applications for New Awards and Funding Priority for FY 1988; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of proposed funding priority for Fiscal Year 1988.

SUMMARY: The Secretary proposes a funding priority for long-term training grants in the field of Rehabilitation Counseling to ensure effective use of program funds and to direct funds to an area of identified training need during fiscal year 1988. The Secretary will reserve funds for applications meeting this priority.

DATES: Comments must be received on or before March 10, 1988.

ADDRESSES: All comments concerning this proposed funding priority should be addressed to Delores Watkins, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3322-MS 2312), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Delores Watkins, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3322-M/S 2312), Washington, DC 20202. Telephone: (202) 732-1349.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed to increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational and independent living rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Eligible Applicants: Awards are made under this program to State vocational rehabilitation agencies and other public and private or nonprofit agencies or organizations, including institutions of higher education.

Funds Available: The Congress appropriated $30,000,000 for the Rehabilitation Training Program in Fiscal Year 1988. Of this amount, it is estimated that $1,500,000 to $1,800,000 will be available for the support of new projects announced under this notice. An estimated 20 to 24 awards will be funded at an average project award of $75,000. The amount of available funds in this notice is an estimate.

Proposed Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to long-term training applications submitted in the field of Rehabilitation Counseling in fiscal year 1988 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

Applications must be submitted in the long-term training field of Rehabilitation Counseling to provide pre-employment training at the master's degree level, and must be designed to improve and strengthen the capacity of rehabilitation counselors to serve and place severely disabled individuals in employment, especially competitive employment. The training must directly involve students with business and industry in providing rehabilitation services, especially placement services, to severely physically and mentally disabled individuals. The coursework must be designed to provide students with skills and knowledge in: (1) Interpreting diagnostic, psychological, and educational background information to assess the functional capacities of, and do vocational planning for, disabled individuals, including traumatically brain-injured individuals, chronically mentally ill individuals, and learning-disabled individuals; (2) planning effective rehabilitation programs for, and delivering rehabilitation services to, disabled individuals, including traumatically brain-injured individuals, chronically mentally ill individuals, and learning-disabled individuals; (3) job development, job modification, and job restructuring; (4) workers' compensation programs; (5) providing services to disabled individuals to facilitate their transition from school to employment; (6) providing supported employment services to disabled individuals; (7) the applicability of sections 501, 502, 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; (8) utilizing rehabilitation engineering resources; (9) the services available under the Client Assist Programs; and (10) consulting with employers and potential employers to identify employment opportunities for disabled individuals, to educate and train employers in identifying and removing barriers to the employment of disabled individuals, and to educate or train employers and potential employers about various disabilities and the vocational implications of those disabilities. Practicum training must involve students directly with business and industry in developing jobs for and placing disabled individuals in competitive employment. The practicum training may include actual student experiences in business and industry settings.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection, during and after the comment period, in Room 3042, Mary E. Switzer Building, 330 C Street, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(29 U.S.C. 774)

Dated: January 22, 1988.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

[FR Doc. 88-2726 Filed 2-8-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.129]

Invitation for Applications for New Awards Under the Rehabilitation Long-Term Training Program for Fiscal Year 1988—Rehabilitation Counseling

Purpose: To provide grants to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education, for projects designed to increase the supply of trained personnel available for employment in public and private rehabilitation agencies and institutions involved in the vocational and independent living rehabilitation of individuals with disabilities and to maintain and upgrade the skills and knowledge of personnel employed as providers or administrators of vocational, medical, social, or psychological rehabilitation services to individuals with severe disabilities.

Deadline for Transmittal of Applications: April 11, 1988
Applications Available: February 12, 1988
Range of Funds Available: $1,500,000 to $1,800,000
Estimated Range of Awards: $50,000 to $100,000
Estimated Average Size of Awards: $75,000
Estimated Number of Awards: 20 to 24
Project Period: Not to exceed 36 months
Applicable Regulations: (a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); (b) the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and (c) when adopted in final form, the Notice of Proposed Priority published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priority. If there are any changes made when the final priority is published, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: Mary Vest, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3332-M/S 2312), Washington, DC 20202, Telephone: (202) 732-1343.

Program Authority: 29 U.S.C. 774

Dated: February 4, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88-2727 Filed 2-8-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
February 9, 1988

Part VI

Department of Education

34 CFR Parts 350 and 360

National Institute on Disability and Rehabilitation Research; Notice of Proposed Rulemaking and Notice

DEPARTMENT OF EDUCATION

34 CFR Parts 350 and 360

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the National Institute on Disability and Rehabilitation Research (NIDRR). These regulations are needed to implement the statutory requirement that NIDRR support projects for the training of rehabilitation researchers, as added by the Rehabilitation Act Amendments of 1986. These proposed regulations would define the purpose and required activities of the program, identify eligible applicants, and specify criteria by which applicants would be selected to receive awards.

DATES: Comments must be received on or before March 25, 1988.

ADDRESSES: Comments should be addressed to: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland; Telephone: (202) 732-1142; deaf or hearing impaired individuals may call (202) 732-1198 for TTY services.

SUPPLEMENTARY INFORMATION: The National Institute on Disability and Rehabilitation Research (NIDRR), established under Title II of the Rehabilitation Act of 1973, carries out a variety of research and related activities. Title II was amended most recently in 1986. Regulations to implement most changes made by the Rehabilitation Act Amendments of 1986 were published in the **Federal Register** on August 12, 1987 at 52 FR 30060. The Secretary now proposes additional regulations to implement a new program for training rehabilitation researchers.

On the basis of an analysis of the need for expertise in particular rehabilitation research fields, the Secretary has determined that the appropriate implementation of this authority is to provide advanced training in research for individuals trained in rehabilitation-related clinical specialties whose professional practice degree requirements did not include an emphasis on research capability. This is typical in many fields of medicine and allied health specialties, social work, and similar applied disciplines. The research training that is currently provided, frequently through in-service training or occasional workshops, is not sufficient in duration or intensity. Thus, the Secretary is proposing a program that is at least two years in duration.

The Secretary believes that evaluating applications for projects to train researchers differs significantly from evaluating applications for projects to conduct research, and thus proposes selection criteria that focus on four major components of an effective research training program. These are: The relevance and importance of the proposed training program and its probable contribution to increasing the population of qualified rehabilitation researchers; the quality of the proposed training program; the quality of the resources and the personnel involved in the project; and the plan for management and operation of the training program.

The proposed selection criteria incorporate all of the elements specified as selection criteria in the Education Department General Administrative Regulations (EDGAR). However, these proposed regulations would consolidate those criteria into the four described categories.

Executive Order 12291

These proposed 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 specified 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. The small entities that might be affected by these regulations are small institutions of higher education, Indian tribes, or public or private organizations. However, these regulations would not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or reporting requirements, nor do they require unnecessary Federal supervision.

Paperwork Reduction Act of 1980

Section 360.31 contains information collection requirements. As required by section 3504(b) of 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 (OMB) 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: James 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 priorities will be available for public inspection, during and after the comment period, in Room 3070 of the Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through 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 in the United States.

List of Subjects

34 CFR Part 350

Administrative practice and procedure, Education, Educational research, Grant programs—education, Handicapped.

34 CFR Part 360

Education, Educational research, Grant programs—education, Handicapped, Manpower training programs, Vocational rehabilitation.

(Program Authority: 29 U.S.C. 760-762)

Dated: January 14, 1988.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.133P, National Institute on Disability and Rehabilitation Research.)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 350 and adding a new Part 360, as follows:

PART 350—DISABILITY AND REHABILITATION RESEARCH: GENERAL PROVISIONS

1. The authority citation for Part 350 continues to read as follows:

Authority: 29 U.S.C. 760–762, unless otherwise noted.

2. Section 350.1 is amended by revising the introductory text in paragraph (b) and adding a new paragraph (b)(10) to read as follows:

§ 350.1 Disability and rehabilitation research.

* * * * *

(b) The Secretary awards financial assistance through ten types of programs:

* * * * *

(10) Research Training and Career Development Projects (34 CFR Part 360).

(Authority: Secs. 200, 202, and 204; 29 U.S.C. 760, 761a, and 762)

3. Section 350.2 is amended by revising the introductory text to read as follows:

§ 350.2 Who is eligible for assistance under these programs?

The following agencies and organizations are eligible for grants or contracts as appropriate under these programs, except for programs described in 34 CFR Parts 356, 359, and 360:

* * * * *

4. Section 350.3 is amended by revising paragraph (c) to read as follows:

§ 350.3 What regulations apply to these programs?

* * * * *

(c) The regulations in 34 CFR Part 351, 352, 353, 354, 355, 356, 357, 358, 359, or 360, as appropriate; and

* * * * *

5. Section 350.20 is revised to read as follows:

§ 350.20 What are the application procedures under these programs?

An applicant for assistance under 34 CFR Part 351, 352, 353, 354, 355, 357, 358, 359, or 360 shall submit a copy of its application to the state rehabilitation agency for comment in accordance with the procedures in EDGAR, 34 CFR 75.155–75.159.

(Authority: Secs. 204(c) and 306(i); 29 U.S.C. 762(c) and 766(a))

6. Section 350.30 is amended by revising the second sentence to read as follows:

§ 350.30 To whom does the Secretary refer an application?

* * * Peer review panels review applications for the Secretary on the basis of selection criteria described in 34 CFR 350.34, 352.31, 353.31, 358.32, 359.31, or 360.31, as appropriate.

* * * * *

7. Section 350.40 is amended by revising paragraph (a) to read as follows:

§ 350.40 What are the matching requirements?

(a) The Secretary may make grants to pay for part of the costs of research and demonstration projects that bear directly on the development of procedures, methods, and devices to assist in the provision of vocational and other rehabilitation services, and research training and career development projects. Each grantee must participate in the costs of those projects. The specific amount of cost sharing to be borne by each grantee is negotiated at the time of the award and is not a factor that is considered in the selection process.

* * * * *

8. A new Part 360 is added to read as follows:

PART 360—DISABILITY AND REHABILITATION RESEARCH: RESEARCH TRAINING AND CAREER DEVELOPMENT PROGRAM

Subpart A—General

Sec.
360.1 What is the research training and career development program?
360.2 Who is eligible for assistance under this program?
360.3 What regulations apply to this program?
360.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Department Support Under this Program?

360.10 What types of projects are authorized under this program?
360.11 What types of activities are required under these projects?

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

360.30 How is peer review conducted under this program?
360.31 What selection criteria are used under this program?
360.32 What are the priorities for funding under this program?

Subpart E—What Conditions Must Be Met After an Award?

360.40 What is the required duration of the training?
360.41 What level of participation is required of trainees?

Authority: 29 U.S.C. 760–762, unless otherwise noted.

Subpart A—General

§ 360.1 What is the research training and career development program?

The purpose of this program is to expand capability in the field of rehabilitation research by supporting projects that provide advanced training in rehabilitation research.

(Authority: 29 U.S.C. 761a(k))

§ 360.2 Who is eligible for assistance under this program?

Institutions of higher education are eligible to receive assistance under this program.

(Authority: 29 U.S.C. 761(a)(k))

§ 360.3 What regulations apply to this program?

The regulations referenced in 34 CFR 350.3 apply to this program.

(Authority: 29 U.S.C. 761a(i)(1))

§ 360.4 What definitions apply to this program?

The definitions listed in 34 CFR 350.4 apply to this program.

(Authority: 29 U.S.C. 761a(i)(1))

Subpart B—What Kinds of Activities Does the Department Support Under This Program?

§ 360.10 What types of projects are authorized under this program?

The Research Training and Career Development Program provides financial assistance for projects of advanced training in rehabilitation research. These projects provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees who have clinical experience in fields pertinent to rehabilitation in order to qualify those individuals to conduct independent research on problems related to disability and rehabilitation.

(Authority: 29 U.S.C. 761a(k))

§ 360.11 What types of activities are required under these projects?

Each project must include the following activities:

(a) Recruitment and selection of candidates for advanced research training.

(b) Provision of a training program that includes didactic and classroom instruction, is multidisciplinary, and emphasizes scientific methodology, and that may involve collaboration among institutions.

(c) Provision of research experience, laboratory experience, and a practicum that involve each individual in clinical research and in practical activities with organizations representing individuals with disabilities.

(d) Provision of academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions.

(e) Opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings as appropriate for the individual's field of study and level of experience.

(Authority: 29 U.S.C. 761(a)(k))

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 360.30 How is peer review conducted under this program?

Peer review is conducted under this program in accordance with 34 CFR 350.30–350.32.

(Authority: Sec. 202(e); 29 U.S.C. 761a(e)).

§ 360.31 What selection criteria are used under this program?

(a) *Importance and potential contribution.* (10 points) The Secretary reviews each application to determine to what degree—

(1) The applicant is responsive to any priority established under § 360.32;

(2) The applicant proposes to provide training in a rehabilitation discipline or area of study in which there is a shortage of qualified researchers, or to provide training to a trainee population in which there is a need for more qualified researchers, such as clinicians in rural areas, or clinicians who are directly experienced with underserved populations; and

(3) The applicant is likely to make a significant increase in the number of trained rehabilitation researchers.

(b) *Quality of proposed training program.* (40 points) The Secretary reviews each application to determine to what degree—

(1) The applicant's proposed recruitment program is likely to be effective in recruiting highly qualified trainees;

(2) The proposed didactic and classroom training programs emphasize scientific methodology, are multidisciplinary, comprehensive, and appropriate to the level of the trainees, and are likely to produce qualified independent researchers;

(3) The quality and extent of the academic mentorship, guidance, and supervision to be provided to each individual trainee are of a high level and are likely to produce highly qualified researchers;

(4) The type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in research on meaningful topics at an advanced level, are likely to develop individuals with the capacity to perform independent research; and

(5) The opportunities for collegial and collaborative activities, exposure to outstanding scientists in the field, and opportunities to participate in the preparation of scholarly or scientific publications and presentations are extensive and appropriate.

(c) *Personnel and resources committed to the project.* (30 points) The Secretary evaluates each application to determine to what degree—

(1) The activities of the project will be implemented by sufficient and qualified staff who are outstanding scientists in the field;

(2) The project director and other key staff are experienced in the delivery of advanced research training as well as knowledgeable about the methodology and literature of pertinent subject areas;

(3) All required disciplines are effectively included; and

(4) The applicant possesses the appropriate facilities, laboratories, and access to clinical populations and organizations representing persons with disabilities to support the conduct of advanced clinical rehabilitation research.

(d) *Management and operating plans.* (20 points) The Secretary evaluates each application to determine to what degree—

(1) There is an effective plan of operation that ensures proper and efficient administration of the project;

(2) There is an effective plan for collaboration with other institutions of higher education and organizations whose participation is necessary to ensure effective classroom and clinical research training;

(3) The applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(4) The applicant has provided an adequate plan for the use of facilities, resources, supplies, and equipment;

(5) The budget for the project is reasonable and adequate to support the proposed activities; and

(6) The applicant provides an appropriate plan for the evaluation of all phases of the project.

(Authority: 29 U.S.C. 761a(e) and 761(a)(k)).

§ 360.32 What are the priorities for funding under this program?

(a) Each year, the Secretary may establish priorities to support research training in one or more of the following areas of study:

(1) Medicine or medical specialties, such as physical medicine and rehabilitation; neurology; orthopedics; otolaryngology; rheumatology; psychiatry; family medicine; endocrinology; pediatrics; podiatry; dentistry; urology; plastic and reconstructive surgery; or maxillofacial prosthodontics.

(2) Allied health professions, such as physical therapy; occupational therapy; nursing; audiology; speech pathology; psychology; or recreational therapy.

(3) Engineering and rehabilitation technology fields, such as prosthetics and orthotics; engineering; design; architecture; computer applications; or biomechanics.

(4) Miscellaneous clinical or technical fields, such as rehabilitation counseling; social work; law; social and behavioral sciences; gerontology; or demographics.

(b) The Secretary establishes any priorities under this section through a notice in the **Federal Register.**

(Authority: 29 U.S.C. 760–762).

Subpart E—What Conditions Must Be Met After an Award?

§ 360.40 What is the required duration of the training?

A grantee shall provide training to individuals that is not less than two academic years in duration.

(Authority: 29 U.S.C. 760–762).

§360.41 What level of participation is required of trainees?

Individuals who are receiving training in the advanced research career development program shall devote a minimum of eighty percent of their time to the activities of the training program during the academic year.

(Authority: 29 U.S.C. 760–762).

[FR Doc. 88–2729 Filed 2–8–88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133P]

Invitation for Applications for Career Development/Research Training Grants Under the National Institute on Disability and Rehabilitation Research for Fiscal Year 1988

Purpose: Provides funds to institutions of higher education to support projects that provide advanced training in rehabilitation research to qualified individuals.

Deadline for Transmittal of Applications: April 11, 1988.

Applications Available: February 10, 1988.

Available Funds: $375,000.

Estimated Number of Awards: 3.

Estimated Range of Awards: $75,000–$150,000.

Estimated Average Size of Awards: $125,000.

Project Period: 36 months.

Funding Priority: In fiscal year 1988, NIDRR expects to make three new awards under this program. In accordance with 34 CFR 75.105(c)(3) and proposed 34 CFR 360.32(a)(2), NIDRR will give an absolute priority in one award to applications that propose to provide advanced research training in the area of physical therapy. The remaining two awards will be made in any area of research training related to disability and rehabilitation.

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (b) when they become final, the proposed regulations for this program published in this issue of the **Federal Register** as Disability and Rehabilitation Research: Research Training and Career Development Program, 34 CFR Part 360. Applicants should prepare their applications based on the proposed regulations. If there are significant changes made when the final regulations are published, applicants will be given an opportunity to amend or resubmit their applications.

For Applications or Information Contact: Inez Fitzgerald, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC 20202. Telephone: (202) 732–1202; deaf and hearing impaired individuals may call (202) 732–1198 for TDD services.

Program Authority: 29 U.S.C. 76la(k).

Dated: February 2, 1988.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 88–2728 Filed 2–8–88; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
February 9, 1988

Part VII

Department of Labor

Office of the Secretary

48 CFR Part 2901 et al.
Acquisition Regulation Concerning Competition in Contracting; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

48 CFR Parts 2901, 2902, 2903, 2905, 2906, 2909, 2913, 2914, 2915, 2916, 2917, 2919, 2933, 2943, and 2949

Acquisition Regulation Concerning Competition in Contracting

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is adopting as a final rule the interim rule to implement the Competition in Contracting Act of 1984 and Federal Acquisition Circular 84-5, and is making further editorial changes to the Department of Labor Acquisition Regulation.

EFFECTIVE DATE: March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Adam W. Hare. Telephone: 202-523-9174.

SUPPLEMENTARY INFORMATION: On November 6, 1986, the Department of Labor (DOL) published an interim final rule to conform the DOL Acquisition Regulation (DOLAR) to revisions made to the Federal Acquisition Regulation (FAR) to implement the Competition in Contracting Act of 1984 (CICA), Pub. L. 98-369. 51 FR 40372. The FAR revisions were implemented by Federal Acquisition Circular 84-5.

The interim final rule also made editorial changes to the DOLAR and implemented revised procedures for filing protests with the General Accounting Office and new procedures for filing automatic data processing protests with the General Services Administration Board of Contract Appeals, as required by CICA. Revisions were made to implement new bid protest procedures under Federal Acquisition Circulars 84-6 (January 15, 1985) and 84-9 (June 20, 1985).

The interim final rule was effective on publication (November 6, 1986), and, as a rule of agency procedure, was not preceded by a notice of proposed rulemaking. See 5 U.S.C. 553 (b)(A) and (d)(3). However, public comments were invited, through December 8, 1987. No comments were received. However, in this final rule, to conform to changes in statutory requirements, the Department of Labor is amending this rule to (1) delete the definition of "Automated Data Processing (ADP)" in section 2902.101, and (2) revise the dollar threshold from "$10,000" to "$25,000" in section 2919.202-1(a). To add clarification, section 2943.301 is amended to require the contracting officer to specifically state in a unilateral contract modification for contract close-out that the contractor has signed a release of claims (release) and reference the date of the signed release in the modification. No other changes to the interim final rule are made.

Regulatory Impact

Executive Order 12291: This rule does not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. Executive Order 12291, 3 CFR, 1981 Comp., p. 127, 5 U.S.C. 601 note.

Regulatory Flexibility Act: Since this rulemaking was not preceded by a notice of proposed rulemaking, this is not a "rule" as defined by the Regulatory Flexibility Act. However, at the time the interim final rule was published, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the Certification pursuant to 5 U.S.C. 605(b) that the rule will not have a significant economic impact on a substantial number of small entities. The rule revises Department-wide acquisition regulations and contains no new requirements on small entities beyond those prescribed by the Competition in Contracting Act of 1984.

Paperwork Reduction Act: This rule does not contain information collection requirements which require approval from the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 48 CFR Parts 2901, 2902, 2903, 2905, 2906, 2909, 2913, 2914, 2915, 2916, 2917, 2919, 2933, 2943, and 2949:

Government procurement.

Final Rule

CHAPTER 29—DEPARTMENT OF LABOR

Accordingly, the interim rule amending Chapter 29 of Title 48, Code of Federal Regulations, published at 51 FR 40372, November 6, 1986, is adopted as final with the following changes.

Signed at Washington, DC, this 4th day of February, 1988.

Janice M. Sawyer,

Procurement Executive.

Thomas C. Komarek,

Assistant Secretary for Administration and Management.

PART 2902—DEFINITION OF WORDS AND TERMS

1. The authority citation for 48 CFR Part 2902 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2902.101 [Amended]

2. Section 2902.101 is amended by removing the definition for "Automated Data Processing (ADP)."

PART 2919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

3. The authority citation for Part 2919 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2919.202-1 [Amended]

4. Section 2919.202-1 is amended by revising the dollar amount "$10,000" in paragraph (a) to read "$25,000".

PART 2943—CONTRACT MODIFICATIONS

5. The authority citation for Part 2943 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2943.301 [Amended]

6. Part 2943 is amended by adding at the end of section 2943.301 the following sentence: "The contracting officer shall include in any unilateral contract modification issued for contract close-out a statement that the contractor has signed a release of claims and indicate the date the release of claims was signed by the contractor."

[FR Doc. 88-2712 Filed 2-8-88; 8:45 am]

BILLING CODE 4510-33-M

federal register

Tuesday
February 9, 1988

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of an Airport Radar Service Area at Sarasota-Bradenton Airport, Florida; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-25]

Establishment of an Airport Radar Service Area at Sarasota-Bradenton Airport, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at Sarasota-Bradenton Airport, FL. This location is a public airport served by a Level V Radar Approach Control. Establishment of this ARSA will require that pilots establish two-way radio communication with air traffic control (ATC) prior to entering the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in the terminal area and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 93 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On September 11, 1987, the FAA proposed to designate an ARSA at Sarasota-Bradenton Airport, FL (52 FR 34606). This rule designates an ARSA at this airport. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held an informal airspace meeting for this proposed airport.

Discussion of Comments

The FAA received four comments on the proposed ARSA. One of the commenters supported the proposal and the remaining commenters offered objections which are addressed below.

Although they found no record of any affiliated organizations near the proposed site. The Soaring Society of America (SSA) submitted a number of objections to the basic ARSA program. Comments objecting to the ARSA program were considered during the rulemaking for the ARSA rule which was published in the **Federal Register** on March 6, 1985, (50 FR 9252). The SSA offered no site specific recommendations/objections.

One commenter suggested that Sarasota does not warrant an ARSA, but if the proposal is implemented they would like to see a modification to the design in order to provide a corridor for VFR traffic traversing the shoreline north and south.

The FAA does not agree. The criteria utilized in determining ARSA candidates was carefully developed. The passenger enplanements, while not providing the same indication of aircraft movements as instrument operations, is a valid criteria because it indicates an airport has reached a threshold of utilization for which the FAA finds it necessary to provide a higher safety margin. The FAA also finds that the corridor suggested by the commenter would put VFR traffic in close proximity to air carrier departures which must fly up the bay to satisfy noise abatement procedures. Most traffic currently using this route routinely calls Sarasota Tower before traversing that airspace. Therefore, there will be no change, in most cases, to the current operation. In addition, the ARSA rule provides for letters of agreement with users which have a routine need to utilize airspace but do not have the necessary equipment.

One commenter, while stating that he had always received exceptional service from the controllers at Sarasota, opposed the proposal because he believed it would have a negative impact on air commerce and on helicopter traffic due to their flight profiles. The FAA has not found that ARSA's have a negative impact on air commerce. Furthermore, the ARSA program provides for letters of agreement with users to minimize the impact where necessary.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation discussed in the NPRM, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of both the efficiency improvements resulting in time savings to aircraft operators and the potential delays resulting from mandatory participation will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will occur in the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall

gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA site established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in radar services and radio communication with ATC is voluntary, operations at airports inside the core might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the 5-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to eliminate virtually any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an Airport Radar Service Area (ARSA) at Sarasota-Bradenton Airport, FL. This location is a public airport at which Stage II Service is currently being provided. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in the terminal area and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Sarasota-Bradenton Airport, FL [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Sarasota-Bradenton Airport (lat. 27°23'42" N., long. 82°33'15" W.); and that airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the Sarasota-Bradenton Airport. This airport radar service area is effective during the specific days and hours of operation of the Sarasota Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on February 4, 1988.

William C. Davis,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88–2782 Filed 2–8–88; 8:45 am]

BILLING CODE 4910–13–M

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Note: This completes the listing of public laws enacted during the first session of the 100th Congress.

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The list will be resumed when bills are enacted into public law during the second session of the 100th Congress, which convened on January 25, 1988. 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).

S. 825 / Pub. L. 100-242

Housing and Community Development Act of 1987. (Feb. 5, 1988; 101 Stat. 1815; 150 pages) Price: $4.25