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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Categorical Eligibility and Other Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Summer Food Service Program (SFSP) regulations by: (1) Providing automatic (or "categorical") free meal eligibility to children from households receiving food stamps or from "assistance units" receiving Aid to Families with Dependent Children (AFDC) benefits; (2) revising several provisions of the regulations pertaining to sponsors which are school food authorities; (3) clarifying several other portions of the regulations dealing with reimbursable meals; and (4) correcting a number of minor errors which appear in the Code of Federal Regulations at 7 CFR Part 225. The first change is necessary to bring the SFSP into conformance with the categorical eligibility requirements mandated by the School Lunch and Child Nutrition Amendments of 1986. The other changes are intended to reduce administrative burdens on sponsors and State agencies and to clarify various provisions of the SFSP regulations.

EFFECTIVE DATE: February 18, 1988.

ADDRESS: Copies of all written comments on the proposed rule are available for review during normal business hours (Monday through Friday, 8:30 a.m.—5:00 p.m.) at 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Pastura or Mr. James C. O'Donnell at the above address or by telephone at (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

In light of the requirement of section 13(g) of the National School Lunch Act that the Secretary publish final rules for the Summer Food Service Program by January 1 of each fiscal year, Anna Kondratas, Administrator of the Food and Nutrition Service, has determined in accordance with 5 U.S.C. 553(d)(3) that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

No new reporting and recordkeeping requirements are included in this final rule, and Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) is therefore not required. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Background

The Department published a proposed rule on November 10, 1987 (52 FR 43200) which included one statutory change and a number of technical and clarifying amendments. The former change provides automatic (or "categorical") free SFSP meal eligibility to children from households receiving food stamps or from "assistance units" receiving Aid to Families with Dependent Children (AFDC) benefits; the latter changes were intended to reduce administrative burden on SFSP sponsors and State agencies, to clarify various provisions of the SFSP regulations, and to correct a number of minor errors which appear in the Code of Federal Regulations at 7 CFR Part 225.

The Department received a total of 19 comments on the regulation from program sponsors, State agencies, advocacy groups, and other interested parties. All comments were carefully considered and the issues raised by them are discussed in the preamble to this final rule.

I. Statutory Change

The Department received 13 comments on the proposal to provide categorical eligibility for free meal benefits to children from food stamp households and AFDC assistance units, most of which supported the proposed regulation as written. However, two commenters expressed concerns relating to the laws on which the proposed regulation was based.

These commenters noted what they perceived to be deficiencies in the language of the School Lunch and Child Nutrition Amendments. The first commenter noted that the definition of "household" or "family" should be made uniform in the Food Stamp, ADFC, and Child Nutrition Programs in order to facilitate proper implementation of categorical eligibility in these Programs. While the Department agrees that implementation would be simplified by cross-Program uniformity, it must be realized that the FSP, AFDC, and Child Nutrition Programs have different legislative goals and, to some degree, are designed to provide benefits to different populations. As a result, different definitions—both statutory and regulatory—have evolved. While maintaining separate Program definitions of "households" in implementing categorical eligibility will add a degree of complexity to Program administration, these different definitions are necessary to comply with the language of the law, which uses the terms "household receiving assistance under the food stamp program" and "AFDC assistance unit." Overall, the categorical eligibility provisions are

expected to greatly simplify application requirements for participating households.

The other commenter believed that categorical eligibility should also be extended to handicapped children from households receiving Supplemental Security Income (SSI) benefits. It is not possible, of course, for the Department to extend categorical eligibility to individuals or groups not specified in the law.

Finally, as noted in the preamble to the proposed rule, the Department added regulatory language at § 225.21(d)(2) intended to clarify the application requirements for children who are *not* categorically eligible. Most commenters approved of the changes as proposed, but several offered suggestions for minor changes in wording to this section. One of these suggested changes—which further clarifies that the application requirements set forth at § 225.21(d)(2) are for children who are not categorically eligible—has been adopted in this final rule.

Accordingly, for these reasons and the reasons set forth in the preamble to the proposed rule, the proposed changes to incorporate categorical eligibility in §§ 225.2 and 225.21 are contained in this final rule. In addition, the proposed changes at § 225.21(d)(2) pertaining to non-categorically eligible children are incorporated in this final rule with the minor change in wording noted above.

II. Discretionary Changes

A. Use of Commodities by Sponsors

The Department received 10 comments on the proposal to allow, under certain conditions, school food authority (SFA) sponsors with food service management company contracts to receive donated commodities. All of these comments favored this change as presented in the proposed rule. For the reasons set forth in the proposed rule, this change is contained in the final rule.

B. Delivery Times at Vended Sites

The Department received 14 comments on its proposal to clarify that food service management companies (FSMCs) may only be paid for meals delivered within the limits specified at § 225.20(a)(5). Eleven of these commenters approved of the clarification as presented in the proposed rule. Three commenters, however, believed that the clarification was too stringent and would prevent FSMCs from being reimbursed for meals unavoidably delivered late due to vehicle breakdown, unexpected traffic jams, etc.

The clarification presented in the proposed rule was not intended to limit the sponsor's discretion in enforcing the terms of its contract with the FSMC. Rather, the clarification was designed to remove what some State Agencies and sponsors perceived to be an ambiguity in the regulatory language at § 225.20(a)(5) pertaining to delivery times at vended sites. That ambiguity appeared to give FSMCs the leeway to deliver meals up to one hour *after* the agreed-upon delivery time, regardless of the reason(s) for the late delivery.

The primary intent of § 225.20(a)(5) is to set a maximum limit (up to one hour before the scheduled delivery time) for *early* delivery, subject to State and local health restrictions. The proposed change was designed to clarify that intent by removing regulatory language which had been misconstrued to provide FSMCs with a one-hour *late* delivery leeway, regardless of the delivery time specified in the sponsor-FSMC contract. Consistent with the intent of the proposed rule, sponsors may still allow late delivery for good cause. However, it is up to the sponsor to interpret "late delivery" and "good cause" in accordance with the terms of its contract with the FSMC. In order to clarify this point, the second sentence of proposed § 225.20(a)(5) has been stricken from this final rule.

Accordingly, for the reasons set forth in this preamble and the preamble to the proposed rule, the proposed change to § 225.20(a)(5) is incorporated in this final rule with the modification noted above.

C. "Pre-approval Visits" of Sponsors

The Department received 11 comments on the proposal to provide State agencies (SAs) with greater discretion in conducting pre-approval visits of new SFA sponsors. Nine of these comments favored the proposed change. One commenter opposed the change because of a belief that the SA's discretion was "confined within limits that are too narrow," but did not elaborate on what the appropriate limits should be. The other commenter opposing the provision felt that the SA's discretion should be limited to new self-preparation SFA sponsors which participated in the National School Lunch Program (NSLP), and should not be related to the results of NSLP reviews.

The Department wishes to point out, however, that the purpose of pre-approval visits is to gain a sense of the sponsor's ability to administer the SFSP and to verify information presented on the sponsor's application. While information about the SFA sponsor's potential ability to administer the SFSP should be discernible from the results of a review of the SFA conducted for the NSLP, the mere fact that the SFA sponsor had vended or self-preparation meal service in the NSLP is not a sufficient predictor of its ability to properly administer the SFSP.

The Department did come to realize, however, that this provision was described in slightly different terms in the preamble and the regulatory language at § 225.9(e)(1)(i). The preamble fully expresses the Department's intent—that, in order for the SA to decide *not* to conduct a pre-approval visit of a new SFA sponsor, the SA should have reviewed the SFA in the NSLP during the preceding 12 months and *found no significant problems*. Several words have been added to the regulatory language at § 225.9(a)(1)(i) which clarify this point.

Accordingly, for these reasons and the reasons set forth in the preamble to the proposed rule, the proposed change at § 225.9(e)(1)(i) is contained in this final rule with the minor change noted above.

D. Meal Reimbursements

The Department received 10 comments on each of the two proposed clarifications to the regulations governing the reimbursement of meal costs. All of these commenters favored the proposed changes, although one requested guidance for implementing the prohibition on sponsors claiming the cost of any disallowed meals as operating costs. In particular, this commenter wished to know whether self-preparation and vended sponsor would calculate the per meal costs of disallowed meals differently. In response, although self-preparation and vended sponsors would calculate disallowed costs differently, both types of sponsors would base the cost of disallowed meals on food costs alone. Specifically, sponsors which purchase vended meals should deduct the actual per meal cost of the disallowed meals from their operating costs, while self-preparation sponsor should deduct the percentage of total food costs represented by the disallowed meals.

Accordingly, for the reasons discussed in the preamble to the proposed rule, the proposed clarifications to the regulations governing meal reimbursement and claiming procedures are adopted in this final rule.

E. Other Issues

In addition to the issues discussed above, commenters raised points regarding two other parts of the proposed rule—the definition of "areas in which poor economic conditions

exist" at § 225.2 and the correction § 225.8(b)(1).

The second paragraph of the definition of "areas in which poor economic conditions exist" was changed solely in order to reflect the initiation of categorical eligibility determinations in the SFSP. One commenter, however, believed that it was the Department's intention to change the definition of an "enrollment program" to allow non-enrolled children to participate. This was not the Department's intent. By definition, only enrolled children may participate at an enrolled site. If at least 50 percent of the enrolled children are eligible for free or reduced price school meals, all enrolled children at the site may receive a reimbursable SFSP meal free of charge. If less than 50 percent of the enrolled children are eligible for free or reduced price school meals, the site is not eligible to participate in the SFSP. In neither case would non-enrolled children participate at an enrolled site or be counted in the calculation to determine whether the enrolled site was eligible to participate in the SFSP.

One of the corrections made in the proposed regulation was to add six words which had inadvertently been deleted from § 225.8(b)(1). These six words clarify that the SFSP is to be administered during the months of May through September or, where school operate on a year-round basis and have annual vacations at times other than the summer months, other times of the year. One commenter believed that the SFSP had never previously been available except during the months of May through September and that the correction of § 225.8(b)(1) marked a new policy by the Department. In fact, the correction merely brings § 225.8(b)(1) into conformance with the definition of "continuous school calendar" at § 225.2 and re-affirms the long-standing policy of allowing the SFSP to be administered in non-summer months where schools operate on a year-round calendar.

List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs-Health, Infants and Children.

Accordingly, the Department is amending 7 CFR Part 225 as follows:

PART 225—[AMENDED]

1. The authority citation for Part 225 is revised to read as follows:

Authority: Secs. 311, 323 and 326 of the Second Lunch and Child Nutrition Amendments of 1986, Pub. L. 99-500 and 99-591, 100 Stat. 1783, 1783-359 to 362 and 3341-363 to 365; Pub. L. 97-35, secs. 803, 809, 816, and 817(a)-(b), 95 Stat. 357, 524, 527, and 531 (42 U.S.C. 1759a, 1761, 1765, and 1759); Pub. L. 96-499, secs. 203 and 206, 94 Stat. 2599, 2600 and 2601 (42 U.S.C. 1759a and 1761); Pub. L. 95-627, secs. 5(c)-(d), 7(b), and 10(c)(2), 92 Stat. 3603, 3620, 3622, and 3624 (42 U.S.C. 1759a and 1761); Pub. L 95-166, sec. 2, 91 Stat. 1325 (42 U.S.C. 1761); Pub. L. 91-248, sec. 7, 84 Stat. 207, 211 (42 U.S.C. 1759a); unless otherwise noted.

2. In § 225.2:

a. New definitions of "adult", "AFDC assistance unit", "documentation", "family", "food stamp household", "household", and "income standards" are added in alphabetical order.

b. The second paragraph in the definition of "Areas in which poor economic conditions exist" is revised.

The additions and revision specified above read as follows:

§ 225.2 Definitions.

* * * * *

"Adult" means, for the purposes of the collection of social security numbers as a condition of eligibility for Program meals, any individual 21 years of age or older.

* * * * *

"AFDC assistance unit" means any individual or grtoup of individuals which is currently certified to receive assistance under the Aid to Families with Dependent Children Program in a State where the standard of eligibility for AFDC benefits does not exceed the income standards for free meals under the National School Lunch Program (7 CFR Part 245).

"Areas in which poor economic conditions exist" means * * * (2) An enrollment program in which at least 50 percent of the enrolled children at the site are eligible for free and reduced price school meals as determined by approval of applications in accordance with § 225.21(d) of this part.

* * * * *

"Documentation" means the completion of the following information on a free and reduced price application: (1) Names of all household members; (2) social security number of each adult household member or an indication that an adult household member does not possess one; (3) household income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security), and total household income; and (4) the signature of an adult member of the household. Alternatively, "documentation" for a child who is a member of a food stamp household or an AFDC assistance unit means completion of only the following information on a free and reduced price application: the name(s) and appropriate food or AFDC case number(s) for the child(ren) and the signature of an adult member of the household.

"Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living one economic unit.

* * * * *

"Food Stamp household" means any individual or group of individuals which is currently certified to receive assistance as a household under the Food Stamp Program.

"Household" means "family", as defined in this section.

* * * * *

"Income standards" means the family-size and income standards prescribed annually by the Secretary for determining eligibility for free and reduced-price meals under the National School Lunch Program and the School Breakfast Program.

* * * * *

3. § 225.5, paragraph (a) is revised to read as follows:

§ 225.5 Commodity assistance.

(a) Sponsors eligible to receive commodities under the Program include: Self-preparation sponsors; sponsors which have entered into an agreement with a school or school district for the preparation of meals; and sponsors which are school food authorities and have competitively procured program meals from the same food service management company from which they competitively procurred meals for the National School Lunch Program during the last period in which school was in session. The State agency shall make available to these sponsors information on available commodities.

* * * * *

4. In § 225.7:

a. Introductory paragraph (j) is amended by adding to the first sentence the word "children's" between the words "of" and "meals".

b. A new paragraph, (j)(6), is added.

The addition specified above reads as follows:

§ 225.7 State agency responsibilities.

* * * * *

(j) * * *

(6) The total number of meals ordered from the food service management company may exceed the maximum approved level for the site only when the meals exceeding this level are served to adults performing necessary

food service labor in accordance with § 225.11(c)(4) of this part.

* * * * *

§ 225.8 [Amended]

5. In § 225.8:

a. Paragraph (b)(1) is amended by adding the words "or at other times for children" after the word "vacation".

b. Paragraph (b)(7) is amended by removing the word "States" and adding in its place the word "stated".

6. In § 225.9:

a. Paragraph (e)(1)(i) is revised.

b. Paragraph (e)(8) is amended by removing from the fourth sentence the word "sonsors" and adding in its place the word "sponsors".

The revision specified above reads as follows:

§ 225.9 Program monitoring and assistance.

* * * * *

(e) * * *

(1) * * *

(i) All applicant sponsors which did not participate in the program in the prior year. However, if a sponsor is a school food authority, has been reviewed by the State agency under the National School Lunch Program during the preceding 12 months, and the review revealed no significant deficiencies, a pre-approval visit may be conducted at the discretion of the State agency;

* * * * *

7. In § 225.11:

a. Paragraph (b)(1)(i) is amended by removing from the second sentence the word "eligile" and adding in its place the word "eligible".

b. Paragraph (c)(1) is amended by removing the word "proceding" and adding in its place the word "preceding".

c. Paragraph (c)(4) is amended by adding a fourth sentence.

d. The first sentence of paragraph (e) is removed and two new sentences are added in its place.

The additions specified above read as follows:

§ 225.11 Program payments.

* * * * *

(c) * * *

(4) * * * Under no circumstances may a sponsor claim the cost of any disallowed meals as operating costs.

* * * * *

(e) The sponsor shall not claim reimbursement for meals served to children at any site in excess of the site's approved level of meal service, if one has been established under § 225.7(j). However, the total number of meals for which operating costs are claimed may exceed the approved level of meal service if the meals exceeding this level were served to adults performing necessary food service labor in accordance with paragraph (c)(4) of this section . * * *

§ 225.14 [Amended]

8. In § 225.14, paragraph (c) is amended by removing the word "determine" and inserting in its place the word "determines".

§ 225.16 [Amended]

9. In § 225.16:

a. Paragraph (e)(3) is amended by removing from the first sentence the word "of" and adding in its place the word "or".

b. Paragraph (e)(13) is amended by removing the word "allmw" and adding in its place the word "allow".

§ 225.18 [Amended]

10. In § 225.18, paragraph (c)(1) is amended by removing the word "participant's" and adding in its place the word "participants' ".

11. In § 225.19, paragraph (d) is amended by revising the fourth sentence to read as follows:

§ 225.19 Operational responsibilities of sponsors.

* * * * *

(d) * * * The sponsor shall not order or prepare meals for children at any site in excess of the site's approved level, but may order or prepare meals above the approved level if the meals are to be served to adults performing necessary food service labor in accordance with § 225.11(c)(4). * * *

* * * * *

12. In § 225.20, paragraph (a)(5) is revised to read as follows:

§ 225.20 Meal service requirements.

(a) * * *

(5) Meals which are not prepared at the food service site shall be delivered no earlier than one hour prior to the beginning of the meal service (unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations) and no later than the beginning of the meal service.

* * * * *

13. In § 225.21:

a. Paragraph (a) is amended by removing the word "applicants" and adding in its place the word "sponsors".

b. Paragraph (b)(2) is revised.

c. Paragraph (c) is amended by revising the third sentence.

d. Paragraph (d) is revised.

The revisions specified above read as follows:

§ 225.21 Free meal policy.

* * * * *

(b) * * *

(2) A description of the method or methods to be used in accepting applications from families for Program meals. Such methods shall ensure that households are permitted to apply on behalf of children who are members of food stamp households or AFDC assistance units using the automatic free meal eligibility procedures described in § 225.21(d).

* * * * *

(c) * * * All media releases issued by camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include: The Secretary's family-size and income standards for free and reduced price school meals; a statement that children who are members of food stamp households or AFDC assistance units are automatically eligible to receive free meal benefits at eligible program sites; and a statement that meals are available without regard to race, color, national origin, sex, age, or handicap.

(d) *Application for free meals.* (1) For the purpose of determining eligibility for free meals, camps and other programs not eligible under §225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall distribute applications for meals to parents or guardians of children enrolled in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size and income levels for reduced-price school meal eligibility with an explanation that households with incomes less than or equal to these values would be eligible for free meals. Such forms and descriptive material may not contain the income standards for free meals. In addition, such forms and materials shall state that, if a child is a member of a food stamp household or an AFDC assistance unit, the child is automatically eligible to receive free program meal benefits, subject to completion of the application as described in paragraph (d)(3) of this section.

(2) Except as provided in paragraph (d)(3) of this section, the application shall contain a request for the following information: (i) The names of all children for whom application is made; (ii) the names of all other household members; (iii) the social security number of all adult household members or an indication that an adult household member does not possess one; (iv) the total current household income and the

income received by each household member identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security, and other cash income received or withdrawn from any other source, including savings, investments, trust accounts, and other resources); (v) a statement to the effect that "In certain cases, foster children are eligible for free meals regardless of household income. If such children are living with you and you wish to apply for such meals, please contact us."; (vi) a statement which includes substantially the following information: "Section 9(d) of the National School Lunch Act requires that, unless you provide a food stamp or AFDC case number for your child, you must provide the social security numbers of all adult members of your household in order for your child to be eligible for free meals. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting and food stamp or welfare office to determine current certification for receipt of food stamp or AFDC benefits, contacting the State employment security office to determine the amount of benefits received, and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with section 7 of Pub. L. 93-579 (Privacy Act of 1974). If a State of local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and (vii) the signature of an adult member of the household immediately below a statement that the person signing the application certifies that all information furnished is true and correct; that the application is being made in connection with the receipt of Federal funds; that program officials may verify the information on the application; and that the deliberate misrepresentation of any of the information on the application may subject the applicant to prosecution under applicable State and Federal criminal statutes.

(3) If they so desire, households applying on behalf of children who are members of food stamp households or AFDC assistance units may apply for free meal benefits under this paragraph rather than under the procedures described in paragraph (d)(2) of this section. Households applying on behalf of children who are members of food stamp households or AFDC assistance units shall be required to provide:

(i) The name(s) and food stamp or AFDC case number(s) of the child(ren) for whom automatic free meal eligibility is claimed; and

(ii) The signature of an adult member of the household below the statement described in paragraph (d)(2)(vii) of this section.

In accordance with paragraph (d)(2)(vi) of this section, if a food stamp or AFDC case number is provided, it may be used to verify the current food stamp or AFDC certification for the child(ren) for whom free meal benefits are being claimed. Whenever households apply for benefits for children not receiving food stamp or AFDC benefits, they must apply for those children in accordance with the requirements set forth in paragraph (d)(2) of this section.

§ 225.23 [Amended]

14. In § 225.23:

a. Paragraph (a) is amended by removing the words "33 North Avenue, Burlington, MA 01803" and adding in their place the words "10 Causeway Street, Room 501, Boston MA 02222-1065".

b. Paragraph (b) is amended by removing the words "One Vahlsing Center, Robbinsville, NJ 08691" and adding in their place the words "Mercer Corporate Park, Corporate Boulevard, CN-02150, Trenton, NJ 08650".

c. Paragraph (d) is amended by removing the words "536 Clark Street, Chicago, IL 60605" and adding in their place the words "50 East Washington Street, Chicago, IL 60602".

d. Paragraph (e) is amended by removing the words "Dallas, TX 75202" and adding in their place the words "Dallas, TX 75242".

Dated: February 12, 1988.

Anna Kondratas,

Administrator.

[FR Doc. 88-3428 Filed 2-17-88; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 247

Commodity Supplemental Food Program

AGENCY: Food Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes final some interim amendments to the Commodity Supplemental Food Program (CSFP) regulations published on September 17, 1986 to comply with the mandates of the Food Security Act of 1985 (Pub. L. 99-198). The rule establishes eligibility requirements for the participation of elderly persons in the CSFP and procedures whereby States with excess CSFP caseload for women, infants, and children may request Departmental approval to convert the excess to serve the elderly. The rule also defines the procedures that will be used by the Food and Nutrition Service (FNS) to approve applications for program initiation and expansion.

This final rule also amends some provisions of the interim rulemaking. The rule makes changes to the method that will be used to establish States' base caseload levels for each caseload cycle beginning December 1, 1987. All currently participating State agencies, except those entering their second caseload cycle of program operations for women, infants, and children or for the elderly, will receive base caseload equal to the greatest of participation for the preceding September, average monthly participation for the period July through September, or average participation for the preceding fiscal year. All State agencies entering their second caseload cycle of program operations for women, infants, and children or for the elderly will receive base caseload equal to the total authorized caseload level for their first cycle of service to either participant subgroup. In addition, beginning with the caseload cycle which commences on or after December 1, 1988, base caseload cannot exceed the total caseload a State agency received for the preceding caseload cycle. These changes in base caseload assignment will promote sound caseload management by State agencies and will ensure a more equitable caseload assignment system.

Clarifications concerning certification procedures for the elderly explain in greater detail State agency responsibilities at each even-numbered certification in order to facilitate States' efforts to ensure accountability in the certification process. In addition, the final rule makes several minor changes and clarifications in response to public comment.

Finally, this rulemaking also implements mandates of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100–202), enacted on December 22, 1987, regarding allocation of resources between currently participating and newly applying State agencies. These requirements, which affect only the first caseload cycle to begin after December 1, 1987, are in essential accord with the order of funding established in the interim rule and confirmed in this final rule, except that (1) limits are imposed on resources available to currently participating State agencies and (2) each new State agency's share of available caseload is based on the size of its request without consideration for its relative need.

EFFECTIVE DATE: February 18, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S.D.A., 3101 Park Center Drive, Room 407, Alexandria, Virginia 22302, (703) 756–3746. Comments are available for inspection in Room 407, 3101 Park Center Drive, Alexandria, Virginia 22302 during regular business hours (8:30 a.m. to 5:00 p.m.), Monday through Friday.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291, and has been determined to be *not major*. The Department does not anticipate that this rule will have an impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Nor will this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has determined that this final rule does not have a significant economic impact on a substantial number of small entities. The reporting requirements established in this rulemaking are under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

In response to public comments on the interim rule, this final rule makes significant changes to the method that will be used by FNS to allocate caseload to State agencies for program operations. In addition, this rule contains two provisions for Fiscal Year 1988 caseload assignments required by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (section 101(k) of Pub. L. 100–202) enacted on December 22, 1987.

The first provision required by Pub. L. 100–202 is a cap on the number of participants who can be served in Fiscal Year 1988 at existing sites. The provision of this rule containing this change constitutes an interpretative rule since it merely implements the statutorily required participation cap of Pub. L. 100–202. Since 5 U.S.C. 552(b) does not require notice of proposed rulemaking for interpretative rules unless required by another statute and since there is no other such statutory requirement, this provision is being made final without prior public comment.

The second statute-based provision concerns a modification to the procedures used to assign caseload to new States in Fiscal Year 1988. While the details of the caseload assignment are not specifically described in the statute, H.R. Rep. 100–498, the Conference Report accompanying Pub. L. 100–202, provides indication of congressional intent that funds available for new States be distributed in a slightly different manner than that set forth in the current rule. In order to implement congressional intent, this final rule contains a provision which was not proposed. However, since this change is necessary only for the assignment of caseload to new States in Fiscal Year 1988, and since that assignment must occur as soon as possible in order to permit new States to use their Fiscal Year 1988 allocations to the fullest extent possible, prior public comment would be both impracticable and contrary to the public interest. For these reasons and in accordance with 5 U.S.C. 553(b), Anna Kondratas, Administrator of FNS, has determined that good cause exists for making this provision of the final rule effective without prior public comment.

Finally, Anna Kondratas, Administrator of FNS, has determined that a post-publication waiting period prior to implementation of this entire rule is impracticable and contrary to the public interest, and that pursuant to 5 U.S.C. 553(d) good cause exists for making this rule effective immediately upon promulgation. This determination is based on the fact that a 30-day waiting period would result in the delay in the implementation of most of the important changes contained in this rule until the next caseload cycle which begins on or after December 1, 1988. This delay would adversely affect the operation of this program, and, with respect to the changes required by Pub. L. 100–202, would contravene the statute. Making this rule effective on publication will enable FNS to use these new procedures in making the 1988 caseload assignments.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernment consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29112)).

Background

On December 23, 1985 the President signed the Food Security Act of 1985 (Public Law 99–198). The law amends section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require the Secretary to (1) establish eligibility requirements for the expanded participation of elderly persons in the CSFP, (2) establish procedures to allow local agencies currently administering the CSFP to serve elderly persons as long as service levels for women, infants and children are not reduced; (3) protect the "existing caseloads" of the three established elderly feeding sites in Detroit, Michigan; New Orleans, Louisiana and Des Moines, Iowa and participation levels of the operating CSFP sites; and (4) approve applications of additional sites for the program in areas in which the program does not operate, provided that funds for program initiation are available. In response to Pub. L. 99–198, the Department published an interim rule for the CSFP in the **Federal Register** (51 FR 32895) on September 17, 1986. The Department exercised discretion in the interim rule regarding the process that would be used by FNS in the allocation of caseload for expanded program services in currently participating States and commencement of program operations in newly approved CSFP State agencies. The Department provided an extensive comment period which ended on February 1, 1987. A lengthy comment period was provided in order to allow States sufficient time to implement the regulatory provisions and observe their impact on program administrative and operational procedures before submitting comments. During the comment period, 17 comment letters were received from a variety of sources,

including CSFP State and local agency staff, Special Supplemental Food Program for Women, Infants and Children (WIC) State agency staff, local health professionals, State Department of Human Services staff and advocacy groups. The Department would like to thank all of those commenters who responded to the interim rule.

General Comments

Of the timely comment letters received, the majority were in support of the provisions of the interim rule. However, six of the commenters opposed the procedures established by the Department to allocate caseload to State agencies for program operations. These comments will be discussed in detail later in the preamble. One State agency submitted eight comment letters which opposed the income eligibility criteria and certification period established for the participation of elderly persons certified for the program after September 17, 1986. These commenters recommended that all States be allowed to establish elderly eligibility requirements as had the three State agencies which administered the original elderly feeding pilot projects. This recommendation was not acted upon because the eligibility criteria established in the interim rule reflect the Department's effort to concentrate program benefits on persons most in need. Income is the best index of need for this population. The Department also declined to adopt several other recommendations, each of which was submitted by only one commenter. It was suggested that the definition of "homebound elderly persons" be modified to provide more detailed guidelines, rather than relying so heavily on the "judgment of the local agency." The Department, however, believes that the local agency is in the best position to establish guidelines for determining which elderly persons need assistance in obtaining food packages, as well as to apply the guidelines to the individual circumstances of elderly applicants. Another commenter recommended that the Department consider children up to age six when establishing the program service needs of States which request initiation or expansion caseload, since children up to age six are a part of the CSFP eligible population. Data on children up to age five is being used by the Department because sufficiently reliable data on eligible children over age five is not available. A commenter recommended that elderly initiation and expansion caseload requests be provided based on the number and/or percentage of economically disadvantaged elderly in a State because this approach would be a fairer method for allocating caseload slots. According to the most recent census data, the low-income elderly population in existing CSFP States is so large compared with the resources available to serve it that relative need is not a realistic basis for caseload allocation. Providing equal shares is the most reasonable and equitable method for allocating expansion and initiation caseload for service to the elderly.

Relatively few changes have been made in the final rule. The Department has decided to repeat sections of the preamble to the interim rule which address the more complex parts of the interim rule that are unchanged in fianl regulations in order to enhance public understanding. All references in the interim rule which apply only to the caseload cycle beginning December 1, 1986 have been deleted from the final rule. Several clarifications have also been made in the final rule in response to commenters' recommendations. The regulatory language in this final rule includes both sections of the interim rule that are unchanged and amendments to the interim rule so that readers will have easy access in a single document to all CSFP regulations implementing Pub. L. 99–198. Section 247.10 contains clarifications and substantive changes; clarifications also appear in §§ 247.5 and 247.7. Amendments implementing Pub. L. 100–202, which affects only the first caseload cycle to begin after December 1, 1987, are concentrated in a new § 247.24.

1. Definitions (Section 247.2)

a. Caseload

The definition of "caseload" serves to distinguish it clearly from participation. "Caseload" means the monthly average number of persons a State agency is authorized by FNS to serve over a specified period of time. The caseload assigned establishes a limit on the total number of food packages which can be provided during the specified period.

b. The definition of "caseload cycle" supports a shift in caseload assignment scheduling which will yield more predictability and regularity in the caseload assignment and management processes. The annual caseload cycle will begin the later of December 1, or a date not to exceed 30 days after enactment of appropriations legislation covering the full fiscal year, and end November 30.

c. Elderly Persons

Elderly participation was originally established on a limited-term basis through pilot projects. Relatively few requirements were initially set in order to permit the experimentation appropriate to pilot projects and because Congress had not made a long-term commitment to elderly feeding under the CSFP. Now that Congress has, in Pub. L. 99–198, reauthorized these elderly feeding operations through Fiscal Year 1990, and provided for elderly feeding at other sites, it has accordingly mandated that the Secretary define low-income elderly persons to establish eligibility requirements for their participation. In its definition of "elderly persons," the Department has established a minimum age of 60 years as the basic eligibility requirement for program participation. This minimum age was selected because it is widely used by Federal food assistance programs which provide benefits to the elderly. It has been used as an eligibility criterion for program benefits under the three established elderly feeding sites since their inception.

2. State agency plan of program operation and administration (Section 247.5)

a. Expansion/Initiation Request Timeframes (Section 247.5(a))

Section 247.5(a) stresses that requests to initiate or expand CSFP operations must be made through State Plans. A clarification has also been made to this section to specify that the procedures and timeframes for State Plan submission and FNS approval as outlined in § 247.5(a) of the CSFP regulations published on January 21, 1981 will apply to State Plans conveying requests to initiate or expand CSFP opertions. Only those States with plans which are approved by the beginning of the fiscal year may compete for assignments in the next caseload cycle. States with plans approved after this date will not compete for caseload until the following cycle unless sufficient resources become available in the interim.

In approving a State Plan or amendment to initiate or expand program operations, FNS will specify the number of caseload slots it believes the State can use, and which the State has the administrative capacity to manage. This determination will be based on the content of the Plan or amendment, demographic data, past performance of the State agency, and other information which FNS considers relevant. This intention to set caseload limitations during the State plan approval process based on States' needs and management capacities was stated in the preamble to the interim rule. However, it was not

clearly expressed in § 247.5(a) of the interim rule, which has been revised accordingly.

b. Commencing Service to Elderly Persons (Section 247.5(a))

Section 247.5(a) requires all currently operating CSFP State agencies wishing to convert a portion of their caseload to serve elderly persons to submit requests to provide such service, in the form of State Plan amendments, not less than 90 days after the beginning of the caseload cycle for which the request is being made. The Department believes that a specified waiting period is necessary in order to ensure that State agencies allow their local agencies sufficient time during the caseload cycle in which conversion is approved to meet the full level of demand of women, infants and children in the service area before the needs of the elderly are addressed.

Requests to convert excess caseload to elderly service are approved for one caseload cycle only. To the extent that conversion caseload is used, it becomes part of the base caseload (§ 247.10(a)(2)(ii)) assigned for the next cycle. As base and expansion caseloads fluctuate from cycle to cycle, the appropriateness of caseload conversion must be newly assessed after caseloads have been assigned and demand has asserted itself during each caseload cycle. For example, State A requests and is granted permission to convert 100 caseload slots originally assigned to serve women, infants and children to elderly service. At the end of the caseload cycle for which conversion authority is granted, State A has converted all 100 slots to elderly participation. Therefore, the 100 slots become part of State A's elderly base caseload for the next cycle. However, the conversion authorization State A utilized in the last cycle does not apply to caseload allocated for the next cycle. If State A wishes to convert additional caseload in the next cycle, it must request and receive permission to do so.

State Plan requirements in § 247.5(a)(15) and (16) apply to CSFP State agencies which request permission to serve elderly persons, either with converted caseload originally intended for women, infants and children, or with additional caseload assigned for the elderly. All such State agencies must document the existence of a low-income elderly population sufficient in number to justify requests. They must also describe how they will accommodate the homebound elderly. In authorizing the original elderly feeding pilot projects, Congress stressed home delivery of food packages. The Department believes that the special needs of the homebound should not be forgotten while serving the elderly.

In accordance with Pub. L. 99-198 State agencies currently administering the CSFP with excess caseload will be authorized to convert slots to elderly service to the extent that the demand for service to women, infants, and children can still be met. Section 247.5(a)(16) requires that States requesting to convert caseload meet one additional State Plan requirement. They must demonstrate that the requested number of caseload slots can, in fact, be devoted to the elderly without restricting service to women, infants and children. The Department will require the submission of data, such as historical participation levels and other documentation, which demonstrates that needs of women, infants and children in the service area have been adequately addressed by the Program. This other documentation may include evidence of outreach efforts such as community contacts, printed materials, media contacts and/or contacts made through public agencies which provide service to low-income women, infants and children.

3. Certification (Section 247.7)

a. Establishment of Elderly Persons as a Categorically Eligible Population (Section 247.7(a))

Elderly persons certified for the first time on or after September 17, 1986 must have incomes at or below 130 percent of Federal Proverty Income Guidelines. Selecting this criterion for income eligibility represents an effort by the Department to concentrate benefits on the neediest, and income is the best index of need for this population. In accordance with § 247.7(a)(4), the State agency may require that all categories of eligible persons, including the elderly, undergo a nutritional risk assessment as part of the eligibility determination. Elderly persons who were certified before September 17, 1986 are subject to the terms and conditions of participation in effect on the date of their certification.

b. Priority System (Section 247.7(b)(2))

Section 247.7(b)(2) integrates elderly persons into the CSFP priority system. To ensure that women, infants and children have priority access to program benefits, elderly persons have been placed below women, infants, and children in the participant priority system, in a new Priority Level V. The expanded priority system must be applied by each State agency which has been approved to concert CSFP caseload to serve the elderly or has received caseload to serve the elderly at any site in addition to the levels of participation in December 1985 for the three established elderly feeding projects.

With the exception of caseload equal to December 1985 participation levels of the three original elderly feeding projects, caseload made available to the elderly may not be reserved for them. Rather, such caseload represents a maximum number of slots that can be used to serve the elderly. Before all such slots have been filled, women, infants, children, and the elderly have equal access to them. Once these slots have been filled, women, infants, and children must be enrolled before elderly applicants as slots become available in accordance with the participant priority system.

As indicated above, the participant priority system does not apply to caseload equalling December 1985 participation at the three original elderly projects; these minimum caseload levels are guaranteed in accordance with Pub. L. 99-198 to be available for the elderly through Fiscal Year 1990. This caseload must be reserved exclusively for service to the elderly, consistent with Pub. L. 99-198. Consider, for example, one of the three original elderly feeding projects which is the only site under the State's CSFP and has a protected elderly project caseload of 1,000. The State has received permission to convert up to 500 CSFP caseload slots, which were originally assigned for women, infants, and children, to elderly service. At this site, the priority system does not apply to elderly persons until elderly participation reaches 1,000. Thereafter, women, infants, and children and the elderly have equal access to the 500 conversion slots until total CSFP caseload is reached. Then, as slots become available, the priority system is applied to conversion slots, giving precedence to women, infants, and children.

c. Certification Periods for Elderly Persons (Section 247.7(g)(1)(iii))

A maximum certification period of 6 months has been established for all elderly participants certified on or after September 17, 1986. Although duration of participation was not limited at the three elderly feeding pilot projects, the Department believes that certification periods have become necessary for future participants since elderly feeding under the CSFP has been significantly broadened in scope and reauthorized through Fiscal Year 1990. A periodic eligibility assessment for elderly certification is necessary to ensure that benefits are directed only to eligible

persons. The Department has established the same certification period for the elderly as for all other participant categories (except pregnant women) to provide for a timely eligibility reassessment and to more quickly accommodate eligible women, infants, and children who are waiting to receive program benefits.

Because the eligibility status of the elderly is not as subject to change as that of women, infants and children, in the interim rule the Department allowed States to review the information in the certification record as the basis for establishing continued program eligibility for the elderly at the second and any subsequent even-numbered certifications. However, one commenter questioned the efficacy of this procedure. Upon reconsideration, the Department concludes that this provision does not fully meet the intent of ensuring accountability in the certification process at each even-numbered certification. Therefore, the requirement for a review of the existent record at each even-numbered certification has been deleted. Instead, local agencies are required to implement a procedure established by their State agencies for contacting each elderly participant at the end of each even-numbered certification to confirm the participant's address and continued interest in program participation. *If there are not women, infants, or children waiting to be served,* local agencies may, State agency policy permitting, certify such elderly persons for an additional 6 months without a review of the existent record or collection of new eligibility data. The Department believes that contact with the participant prior to each even-numbered certification promotes better program accountability and is in the best interest of the participant since the nature of the service delivery system to the elderly under the CSFP tends to otherwise minimize local agency/participant contact. As in the interim rule, the State agency must, at the end of each 12 months of participation, conduct a full eligibility assessment, based on newly submitted information, including income and, if applicable, residency and nutritional risk. With the exception of the protected caseload of the three original elderly feeding projects, elderly persons are to be placed on a waiting list at the end of any 6-month certification period in numbers sufficient to make room for any eligible women, infants or children waiting to be served. Elderly persons certified before September 17, 1986 are subject to the terms and conditions of participation in effect on the date of their certification.

4. Caseload Allocation and Administrative Funding (247.10)

a. Caseload Allocation (Section 247.10(a))

Public Law 100–202 requires minor modifications of the procedures discussed below for the first caseload cycle to begin after December 1, 1987. These one-time modifications are discussed in section 5 of the preamble. For subsequent cycles, caseload will be allocated according to the following procedures, without modification.

In accordance with the provisions of Pub. L. 99–198, the Department established in the interim rulemaking the following order of caseload allocation to ensure (1) full and efficient utilization of program appropriations and (2) assignment of caseload to expand or initiate operation where it is most needed:

Step 1: The three original elderly feeding sites in Detroit, New Orleans and Des Moines are assigned caseload at levels equal to their participation in December 1985, when Pub. L. 99–198 was enacted;

Step 2: Currently participating CSFP State agencies are assigned caseload to support actual participation levels of women, infants and children;

Step 3: Currently participating CSFP State agencies are assigned caseload to support elderly participation in addition to the caseload equal to the December 1985 level for participation at the three original elderly feeding sites;

Step 4: Currently participating State agencies receive caseload to expand service to women, infants and children;

Step 5: Currently participating State agencies receive caseload to initiate or expand service to elderly persons; and

Step 6: Requests from State agencies to initiate program services for women, infants and children are approved.

Six commenters opposed the established order of funding for program initiation and expansion. The commenters requested that the order be changed in the final rule so that new State agencies are considered for caseload for program initiation earlier in the caseload allocation process. Four of these commenters specifically recommended that existing State agencies seeking to expand service to women, infants and children and new State agencies wanting to enter the CSFP be considered concurrently for caseload based on their ranked order of penetration potential (i.e., that steps 4 and 6 be combined). One of the commenters recommended that new State agency requests be given priority over the expansion of elderly service under the program (i.e., that Steps 5 and 6 be reversed). Another commenter recommended that requests of newly applying State agencies be given priority over expansion requests of existing State agencies for services to women, infants and children (i.e., that Step 6 precede Step 4). The commenters believe that such adjustments are necessary in order to ensure the primacy of women, infants and children in the program. While it should be noted that Congress give precedence to elderly persons at the three original projects over all women, infants and children, the Department agrees with commenters that the general primacy of women, infants and children must be maintained as the CSFP expands to serve low-income elderly persons. Provisions have been established throughout the regulations which reflect this intention.

The established caseload allocation procedure ensures maintenance of service levels for women, infants and children before elderly service levels are supported, with the exception of the three original elderly projects, which have first access to available resources under the law. The rule requires State agencies wishing to serve the elderly by converting a portion of their caseload originally allocated to serve women, infants and children to provide the Department with assurances that such service will not restrict service to women, infants and children. A 90-day waiting period is imposed on State agencies wishing to request permission to convert caseload to serve the elderly. This mandatory waiting period insures that local agencies have sufficient time to meet the full level of demand of women, infants and children in the service area before the needs of the elderly are addressed. Elderly persons are placed below women, infants and children in the participant priority system. Women, infants, children and the elderly have equal access to caseload made available for elderly service (excepting the protected caseloads of the three original projects) and caseload which has been authorized for conversion to elderly service. Conversion caseload may not be reserved exclusively for the elderly. When all such caseload has been filled, the priority system ensures first access for women, infants and children as slots become available. Further, State agencies approved to initiate CSFP services are prohibited from converting caseload to serve elderly persons during their first 12 months of program operations. The Department believes

that these provisions afford considerable assurances that the needs of women, infants and children will maintain their priority in the CSFP. Furthermore, the Department maintains that currently operating CSFP States should have a primary claim on any resources available for program expansion because their experience in administering the program enables them to deliver program benefits more efficiently than newly established programs. Therefore, the Department has retained in the final rule the order of caseload allocation established in the interim rule.

The Department believes that the commenters' concerns can be addressed without changing the order of funding. Under the interim rule, currently participating State agencies would receive base caseload (Steps 2 and 3) equal to the greater of their participation for September or average participation for the period July through September. Thus, States which were slow to build participation toward the beginning of a caseload cycle could increase their participation drastically at the end. This unrepresentatively high participation level would be assigned as base caseload for the following cycle. Thus the possibility of resources being available for new State agencies (Step 6) would be significantly diminished. In order to prevent this from occurring, the Department has amended § 247.10(a)(2)(ii) to specify that, beginning with the caseload cycle which commences on or after December 1, 1988, the base caseload assigned to a State may not exceed total caseload the State received in the previous cycle. This restriction applies separately to caseload for women, infants, and children, on the one hand, and the elderly, on the other. Of course all participating State agencies may be eligible to compete for expansion caseload in addition to their base caseload.

Additional changes to the procedure for determining base caseload have been made in response to comments. Section 247.10(a)(2)(ii) of the interim rule specifies that base caseload levels will be provided in amounts equal to the greater of State agencies' participation during September or the average monthly participation for the period July through September. One commenter recommended that caseload levels be provided based on the greatest of participation for September or average monthly participation for the period July through September or for the prior fiscal year. The commenter believed that a more accurate picture of actual participation activity in a State can be achieved by considering all three periods. Fiscal Year 1986 participation data supports this position. In seven of the thirteen CSFP States, average participation for Fiscal Year 1986 exceeded average participation for both September and the period July through September. In view of these data and the commenter's recommendation, the Department will assign base caseload by using the greatest of the three participation levels except that, as discussed above, the maximum base caseload a State agency can receive will be an amount equal to the State's total authorized caseload level for the preceding caseload cycle.

The final change in the procedure for establishing base caseload has been made in response to a commenter's concern about the ability of State agencies to compete for expansion caseload in their second cycle of program operations. Under the interim regulations (§ 247.10(a)(2) (iii)(A) and (iv)(A)), States could compete for expansion caseload only if they met the standard of 90 percent caseload utilization. (This standard is fully discussed later in the preamble.) The commenter believes that this standard should be waived for States entering their second and perhaps third caseload cycles so that such States will not build their programs too fast at the outset in order to qualify for expansion caseload. The Department agrees that the regulatory environment should encourage new State agencies to develop their programs in a gradual and deliberate manner, within their management capabilities. This same reasoning applies to established State agencies which have newly begun service to the elderly. They, too, must pass through an initial phase of learning and experimentation in their efforts to reach this new population. Pressures for premature growth in both situations could lead States to increase participation at a rate faster than their management systems can fully accommodate. However, the Department believes that due to the less stable growth patterns and potentials for such State agencies, applying the commenter's recommendation to States newly serving women, infants and children, or the elderly, could result in significant amounts of unused caseload during the State's second caseload cycle of service to either participant subgroup.

Given these considerations, to address the commenter's concern, the Department has further modified § 247.10(a)(2)(ii) to specify that, funds permitting, all State agencies entering their second cycle of caseload operations for women, infants and children *or* for the elderly will be assigned base caseload for the participant subgroup at the same level authorized for their first cycle. For example, new State agencies A, B, and C each received a caseload of 100 to initiate program services to women, infants and children for their first cycle of operations. The greatest of participation for September or average monthly participation for July-September or for the fiscal year for these States was 80, 90, and 110, respectively. For its second cycle, State A will receive a base caseload of 100, but it will not be eligible to receive expansion caseload for women, infants, and children for its second cycle. States B and C will also receive a base caseload of 100, and they will be eligible for expansion caseload because they have met the 90-percent standard. Note that unconditional reassignment of the prior year's caseload provides the same base caseload limit for State agencies entering their second cycle as applies to all other State agencies. Thus State C's base caseload is capped at 100 despite its participation of 110. Of course this State may receive additional caseload in subsequent steps of the allocation process. The Department believes that this response to the commenter's concern will promote responsible utilization of caseload by State agencies entering their second cycle of caseload operations for women, infants, and children or for the elderly by applying to them a less restrictive method for establishing base caseload. Yet his change will at the same time ensure that caseload levels in these States do not exceed what can reasonably be expected to be used during their second cycle of program service to either participant subgroup. This concludes the discussion of base caseload assignment (Steps 2 and 3).

The only commenter expressing concerns regarding the mechanics of Step 4 of the interim system for caseload allocation, which ensures that expansion caseload for women, infants and children is allocated where it is most needed, did not fully understand this step. All States requesting additional caseload for this purpose which have met the 90-percent standard are ranked according to the extent to which their Federal program resources permit them to penetrate their income-eligible populations. That is, States are ranked based on their potential to serve, under the Special Supplemental Food Program for Women, Infants and Children (WIC) and the CSFP,

categorically eligible women, infants and children up to the age of 5 at or below the current income guidelines for reduced-price meals under section 9 of the National School Lunch Act. (Currently, the limit is 185 percent of the Federal Poverty Income Guidelines).

The maximum expansion caseload which the State with the lowest potential to penetrate its income-eligible population can receive in the first round of this iterative allocation equals the amount of caseload necessary to bring its penetration potential up to the penetration potential of the next State agency in the ranked order. Each successive round of allocation includes the next-lowest-ranked State. If sufficient resources are available, the iterations continue until all States receive the lesser of (1) the formulaic maximum for which they are eligible or (2) the amount of expansion caseload FNS has determined that the State agencies can manage effectively. If funds are not sufficient to provide all applicant States their appropriate expansion caseload, States participating in the final round of allocations receive assignments enabling all of them to achieve the same level of penetration. In no case is a State awarded caseload in excess of its request.

The Department uses income eligibility as the sole basis to approximate the eligible population level in each State because sufficiently accurate data necessary to use nutrition risk as an additional basis for such determination is not available at this time. The following illustrates the process of assigning caseload for expansion. In order to more clearly exemplify the formulaic aspects of the assignment process, the illustration is based on the assumption that all applicant States have requested, and have been approved to receive, the maximum expansion caseload for which they are eligible.

CASELOAD TO ASSIGN: 2564

State	Income eligible population	WIC/CSFP Federal resources can serve	Percent potential penetration	Caseload assignment							
				Round 1		Round 2		Round 3		Round 4 [1]	
				Caseload	Penetration potential (percent)	Caseload	Penetration potential (percent)	Caseload	Penetration potential (percent)	Caseload	Penetration potential (percent)
A	1000	225	23	80	31	90	40	290	69	102	79
B	750	230	31			68	40	218	69	77	79
C	3000	1200	40					870	69	308	79
D	4500	3100	69							461	79
E	4000	3200	80								
			[2]	80		238		1616		2564	

[1] Based on the number of slots (948) which remained available for allocation after Round 3, only States A, B, and C would have received sufficient caseload to bring their penetration up to the 80-percent level of State E. State D would only have received enough caseload to bring its penetration up to 78 percent before all of the available slots (2564) were assigned. Therefore, Round 4 represents an adjustment to the caseload allocation method. The adjustment enables each State allocated caseload to receive an equal share relative to its potential for penetration into the income-eligible population. All States participating in Round 4 can achieve 79-percent penetration.

[2] Cumulative caseload awarded.

Any caseload remaining will be provided in Step 5 to State agencies requesting initiation or expansion services to the elderly whose State Plans, containing such requests (§ 247.5(a)(15)), are approved by the beginning of each fiscal year.

The preamble to the interim rule indicated that, "in approving State Plans or amendments to initiate or expand program operations, FNS will specify the number of caseload slots it believes the State can use, and which the State has the administrative capacity to manage." However, the intention to establish such a limit was not clearly expressed in all appropriate sections of the final rule. As discussed above, the appropriate paragraph on State Plan approval (§ 247.5(a)) has been amended accordingly. A conforming amendment has also been made in § 247.10(a)(2)(iv)(B), which sets forth procedures for assigning elderly caseload. The Department has clarified in this section of the final rule that State agencies will receive expansion caseload for the elderly based on the lesser of (1) their equal share of available caseload, or (2) the amount of expansion caseload FNS has determined that the State agency can effectively manage. If any State's approved share exceeds its request, the excess will be divided equally among States whose approved requests exceed their shares. Expansion caseload limits for women, infants, children and the elderly will be established by FNS based on an assessment of each State's capability to effectively manage additional administrative and operational responsibilities, past performance and other information which FNS considers relevant.

In order to promote full utilization of available funds, only States whose participation of women, infants, and children for September, or average monthly participation for the period July through September or for the prior fiscal year equals at least 90 percent of their CSFP caseload, minus any portion of such caseload approved for conversion, are eligible to compete for additional caseload for women, infants and children to expand operations in the following caseload cycle (§ 247.10(a)(2)(iii)(A)). The procedure for determining how much of its caseload a State agency used has been changed from the interim to the final rule to include consideration of its average monthly participation for the fiscal year. This change conforms with the modification of the method for determining base caseloads (§ 247.10(a)(2)(ii)). The Department believes that caseload for program expansion should be allocated only to States which have clearly demonstrated the ability to effectively utilize their assigned caseload. This same limit is applied with regard to utilization of caseload made available for service to the elderly, including conversion slots (§ 247.10(a)(2)(iv)(A)). Thus, existing State agencies are eligible to receive additional caseload to serve the elderly only if they have utilized to least 90 percent of the total caseload available

for service to the elderly, including conversion caseload.

Caseload remaining after *expansion* requests have been addressed is allocated to State agencies seeking to *initiate* the program. These States are ranked according to their potential to serve the income-eligible population through the WIC Program, based on Federal resources provided under WIC. Then caseload is assigned to them using the same procedure (discussed above) applied to existing programs seeking to expand service to women, infants and children. During their first 12 months of operation, these States cannot convert caseload to the service of the elderly so that the population of women, infants, and children will first be able to reach its full level of demand. As discussed earlier, these States will be provided their prior year's authorized caseload for their second cycle of program operations, funds permitting.

b. Administrative Funding (247.10(b))

This section of the interim rule remains unchanged. Section 247.10(b)(2) establishes that each State's share of 15 percent of the total appropriation, which is set aside for program administration, will be proportionate to the State's share of the total caseload assigned. Administrative funding cannot be based solely on a State's participation levels, as specified in past regulations, because that approach would not provide adequate administrative resources to support newly establised opportunities for program expansion. This section also indicates that whatever caseload and unspent administrative funds may be recovered by FNS during the fiscal year will be reallocated in accordance with the order of caseload allocation established under § 247.10(a). Beyond basic expenses covered by the percentage of each State's administrative grant guaranteed by § 247.10(b)(4), State's administrative costs should generally correlate with their participation levels. Thus in the event that FNS recovers unused caseload from a State agency, administrative funds which would have been needed to manage to unused caseload should also be available for recovery.

5. Temporary Effects of Pub. L. 100–202 on Caseload Allocation

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Pub. L. 100–202), enacted December 22, 1987, mandates several minor, temporary modifications to CSFP resource allocation procedures. These changes apply only to the funds appropriated under this law, which will be fully allocated for the first caseload cycle to begin after December 1, 1987. A new § 247.24, which has been added to encompass these modifications, will have no effect whatsoever on program administration and operations beginning with the caseload cycle that commences on or after December 1, 1988.

Pub. L. 100–202 requires that $8 million of the $50 million it appropriates for the CSFP be allocated to the elderly projects in Detroit, Des Moines, and New Orleans. This mandate will be met through the order of funding established in the interim rules and republished in § 246.10(a) of this final rule. This new legislation also requires that resources remaining after sufficient funds have been allocated to serve 145,000 women, infants, and children and 80,000 elderly persons under existing State agencies be made available to serve women, infants, and children under new State agencies. This legislative provision is also thoroughly consistent with the established regulatory order of funding. The law requires, as do the regulations, that base and expansion caseload be assigned to currently participating State agencies before requests from newly applying State agencies are addressed. While Pub. L. 100–202 does not change the established order of funding, it does alter the results of applying the order. That is, although currently participating State agencies continue to have priority over newly applying State agencies, the one-time caps on caseload available to the former ensure that funds will be available in this cycle to admit approved applicant State agencies. These caps are embodied in the newly established § 247.24.

The Conference Report (H.R. Rep. 100–498) accompanying Pub. L. 100–202 advises that the Department should, in implementing these one-time legislative changes, (1) allow all applicant State agencies with approved State Plans to share in resources available for new starts, and (2) divide such resources proportionally among such State agencies. In keeping with this congressional directive, the ratio of each approved State's caseload request to the total caseload requested by approved State agencies will determine that State's proportional share of available resources. This departure from the formula established in § 247.10(a)(2)(v) appears in the new § 247.24, which applies only to the first caseload cycle to begin after December 1, 1987. Thereafter, the Department will revert to the established method for allocating resources to new State agencies.

List of Subjects in 7 CFR Part 247

Agricultural commodities, Food assistance programs, Maternal and child health, Infants and children, Public assistance programs, Nutrition, Women, Commodity Supplemental Food Program.

Accordingly, 7 CFR Part 247 is amended as follows:

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

1. The authority citation for Part 247 is revised to read as follows:

Authority: Sec. 5, Pub. L. 93–86, 87 Stat. 249, as added by Sec. 1304(b)(2), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub. L. 97–98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub. L. 98–8, 97 State. 35 (7 U.S.C. 612c note); sec. 2(8), Pub. L. 98–92, 97 Stat. 611 (7 U.S.C. 612c note); sec. 1562, Pub. L. 99–198, 99 Stat. 1590 (7 U.S.C. 612c note); sec. 101(k), Pub. L. 100–202

2. In § 247.2 the definitions of Caseload, Caseload cycle, Categorical ineligibility, Elderly persons, Homebound elderly persons, and Participants are republished to read as follows:

§ 247.2 Definitions.

* * * * *

"Caseload" means the monthly average number of persons a State agency is authorized by FNS to serve over a specified period of time.

"Caseload cycle" means the period beginning with the later of (1) each December 1 or (2) a date not to exceed 30 days after enactment of appropriations legislation for the full fiscal year, and ending each November 30.

"Categorical ineligibility" means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, infants, children, or elderly persons.

* * * * *

"Elderly persons" means persons 60 years of age or older.

* * * * *

"Homebound elderly persons" means persons who are, in the judgment of the local agency, unable to obtain monthly food packages without assistance provided by or through the local agency.

* * * * *

"Participants" means pregnant women, breastfeeding women, postpartum women, infants, children, and elderly persons who are receiving supplemental foods under the program.

* * * * *

3. In § 247.5, introductory paragraph (a) is revised and paragraphs (a)(15),

(a)(16) and (c) are republished to read as follows:

§ 247.5 State agency plan of program operation and administration.

(a) *Requirements.* State applications to continue or initiate program operations and requests for additional caseload to expand service to women, infants, children, and elderly persons shall be made through State Plan submissions. By August 15 of each year, the State agency shall submit to FNS for approval a State Plan for the following fiscal year. State agencies whose Plans are approved by the beginning of the fiscal year shall be eligible to commence program operations or receive caseload increases at the beginning of the first caseload cycle to commence after that date. Plans or Plan amendments to initiate or expand operations which are approved after this date may be considered for caseload assignment if additional resources become available during that caseload cycle. Participating State agencies may request permission through a State Plan amendment to convert unused CSFP caseload to serve elderly persons. This amendment may be submitted not less than 90 days after the State agency has been assigned its caseload. Approval to convert caseload shall be effective only during the caseload cycle for which the request is made. The State agency may submit the State Plan in the format provided by FNS guidance. Alternatively, the State agency may submit the Plan in combination with other federally required planning documents or develop its own format, provided that the information required below is included. FNS requests advance notification that a State agency intends to use an alternative format. The State Plan and all amendments shall be signed by the State-designated official responsible for ensuring that the program is operated in accordance with the State Plan. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete submission, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the assignment of caseload and payment of funds for administration to the State agency. In approving the State Plan or Plan amendment to initiate or expand program operations, FNS shall specify the number of caseload slots it believes the State agency can use, and which the State agency has the administrative capacity to manage. This determination shall be based on the content of the Plan or amendment, demographic data, past performance of the State agency, and other information which FNS considers relevant. Portions of the State Plan which do not change from year to year need not be resubmitted. However, the State agency shall provide the title of each section that remains unchanged, as well as the year of the last Plan in which the section was submitted. The State Plan shall provide the following:

* * * * *

(15) If a State agency wishes to serve elderly persons, a description of plans for providing program benefits to elderly persons within the State during the caseload cycle. Such description shall include—

(i) An identification of the elderly population to be served, including documentation of the extent of need in the proposed service area. Demographic statistics concerning the target population shall be included as part of the required documentation; and

(ii) A description of how the State agency will meet the needs of the homebound elderly.

(16) A State agency requesting permission to convert unused caseload slots to serve the elderly shall, in addition to the requirements under paragraph (a)(15) of this section, provide assurance that sufficient caseload is available to serve elderly persons without restricting service levels for women, infants, and children, including data such as historical participation levels and other documentation which demonstrates that the program needs of women, infants, and children in the service area are being met. Such other documentation may include evidence of outreach efforts conducted by the State and/or local agency to recruit women, infants, and children.

* * * * *

(c) *Amendments.* Except as provided in paragraph (a) of this section, the State agency may amend the State Plan at any time. The State agency shall submit the amendments to FNS for approval.

* * * * *

4. In § 247.7, paragraph (a)(1) through (a)(3) of the interim rule are republished; paragraphs (b)(2)(i) through (b)(2)(v) are republished; and introductory paragraph (b)(2) and paragraph (g) are revised to read as follows:

§ 247.7 Certification.

(a) * * *

(1) Categorical eligibility as an infant, child, pregnant, postpartum, or breastfeeding women, or elderly person;

(2) For women, infants, and children, income eligibility for local benefits under existing Federal, State, or local food, health, or welfare programs for low-income persons;

(3) For elderly persons certified on or after September 17, 1986, household income at or below 130 percent of the Federal Poverty Income Guidlines published annually by the Department of Health and Human Services. Elderly persons certified before September 17, 1986 shall be subject to the terms and conditions in effect on the date of their certification.

* * * * *

(b) * * *

(2) The following priorities based on categorical eligibility shall be applied when vacancies occur after the local agency has filled all caseload, except that these priorities shall not apply to the minimum protected caseload assigned under § 247.10(a) (2)(i).

(i) *Priority I.* Pregnant women, breastfeeding women, and infants.

(ii) *Priority II.* Children ages 1 through 3.

(iii) *Priority III.* Children ages 4 through 5.

(iv) *Priority IV.* Postpartum women.

(v) *Priority V.* Elderly persons.

* * * * *

(g) *Certification periods.* (1) Program benefits shall be based upon certifications established in accordance with the following time frames.

(i) Pregnant women shall be certified for the duration of their pregnancy and for up to 6 weeks postpartum;

(ii) Postpartum and breastfeeding women, infants and children shall be certified at intervals prescribed by the State agency, provided such intervals do not exceed 6 months in length; and

(iii) Elderly persons, except those certified before September 17, 1986, shall be certified at intervals prescribed by the State agency, provided such intervals do not exceed 6 months in length. The Initial and any subsequent odd-numbered certifications of elderly persons first certified on or after September 17, 1986 shall be based on an assessment of newly submitted information for all applicable eligibility requirements, except that age need be established only at the first certification. The State agency may authorize local agencies to certify such elderly participants for an additional 6 months without reviewing the case record or collecting new eligibility data at the second and any subsequent even-numbered certifications if there are no women, infants or children waiting to be served. State agencies shall, however,

require local agencies to establish contact with such participants prior to such even-numbered certifications in order to confirm each participant's address and continued interest in program participation.

(iv) Elderly persons certified before September 17, 1986 shall be subject to the terms and conditions in effect on the date of their certification.

(2) Program benefits may be continued until the end of the month in which categorical ineligibility begins, for example, until the end of the month in which a child reaches its sixth birthday.

* * * * *

5. In § 247.10, paragraphs (a)(2)(i), (a)(2)(ii), (a)(2)(iii) (A) through (C), (a)(2)(iv) (A) and (B), (a)(2)(v) (A) and (B), and (a)(5) are revised; paragraphs (a)(1), (a)(2) introductory text, and (a)(2)(iii) introductory text, (a)(2)(iv) introductory text, (a)(2)(iv)(C), (a)(2)(v) introductory text, (a) (3) and (4), (b), and (c) are republished to read as follows:

§ 247.10 Caseload assignment and administrative funding.

(a) *State agency caseload assignment.* (1) FNS shall assign caseload to State agencies on December 1 of each year or within 30 days after enactment of appropriations legislation covering the full fiscal year, whichever comes later. In the event appropriations legislation for the year is not enacted by December 1, caseload assignments for the previous caseload cycle shall remain in effect, subject to the availability of sufficient funding, until assignments are made for the current caseload cycle. Any caseload assigned for a period beyond the end of the current fiscal year shall be available only to the extent that program funds are appropriated for the next fiscal year.

(2) Except as provided by § 247.24 for the first caseload cycle to begin after December 1, 1987, and to the extent that funds are available, FNS shall assign caseload to State agencies in the following order.

(i) State agencies for the three elderly feeding projects in Detroit, New Orleans, and Des Moines shall be assigned caseload equal to the level of participation for each project in December 1985.

(ii) Currently participating State agencies, except those entering their second cycle of program service to women, infants and children or to the elderly, shall receive caseload in amounts equal to the greatest of their participation of, first, women, infants, children, and then elderly persons (except for caseload equal to the December 1985 level of participation at the three original elderly feeding projects) during September, or average monthly participation for the period July through September or for the prior fiscal year: provided, however, that, beginning with the caseload cycle which commences on or after December 1, 1988, a State agency shall not receive caseload under this paragraph in excess of the total caseload assigned to the State agency for the preceding caseload cycle for women, infants and children, on the one hand, or for the elderly, on the other. State agencies entering their second caseload cycle of program service to women, infants and children or to the elderly shall receive caseload equal to the caseload level assigned for their first cycle of program service to the subgroup of participants to whom they are providing their second cycle of service.

(iii) Requests from currently participating State agencies to expand service to women, infants, and children shall be addressed in the following manner.

(A) States shall be eligible to receive expansion caseload only if, during the preceding September, the period July through September, or the prior fiscal year, their average monthly participation of women, infants, and children equaled at least 90 percent of their assigned caseload level for women, infants, and children, minus any portion of such caseload approved for conversion to serve the elderly, for the preceding caseload cycle.

(B) States with timely approved State Plans incorporating such requests shall be ranked based on the extent of their capacity to serve through WIC and the CSFP, as established by the Federal program resources available to them, their categorically eligible populations of women, infants, and children under 5 years of age who meet the income guidelines for reduced-price meals under the National School Lunch Program. The State with the lowest potential penetration shall be ranked first.

(C) In the first round of allocations under this paragraph, the State with the lowest potential penetration shall be allocated the lesser of sufficient caseload to achieve the same level of penetration as the second-lowest-penetration State, or the level of caseload approved by FNS. This process shall be repeated, each round of allocation including the next-lowest-penetration State, as funds permit until all States' approved levels have been assigned. If funds are not sufficient to assign the lesser of approved caseload level and sufficient caseload to achieve the penetration potential of the next-ranked State to all applicant State agencies, State agencies participating in the final round of allocations shall receive assignments enabling them all to achieve the lesser of the same level of penetration or their approved levels.

(iv) Requests from currently participating State agencies to initiate or expand service to elderly persons shall be addressed in the following manner.

(A) States shall be eligible to receive expansion caseload only if, during the preceding September, the period July through September, or the prior fiscal year, their average monthly participation equaled at least 90 percent of the caseload available for service to the elderly, including conversion slots, for the preceding caseload cycle.

(B) Each State agency with a timely approved State Plan incorporating a request to initiate or expand service to the elderly shall be assigned the lesser of an equal share of available caseload or the amount of expansion caseload FNS has determined that the State agency needs and can effectively manage.

(C) If any States' shares exceed their approved requests, the excess caseload shall be divided equally among States whose approved requests exceed their shares.

(v) Requests from State agencies to initiate program services for women, infants, and children shall be addressed in the following manner.

(A) States with timely approved State Plans incorporating requests for program initiation shall be ranked based on the extent of their capacity to serve through WIC, as established by the Federal WIC resources available to them, their potentially eligible populations of women, infants, and children under 5 years of age who meet the income guidelines for reduced-price meals under the National School Lunch Program. The State with the lowest potential penetration shall be ranked first.

(B) In the first round of allocation under this paragraph, the State with the lowest potential penetration shall be allocated the lesser of sufficient caseload to achieve the same level of penetration as the second-lowest-penetration State, or the level of caseload approved by FNS. This process shall be repeated, each round of allocation including the next-lowest-penetration State, as funds permit until all States' approved levels have been assigned. If funds are not sufficient to assign the lesser of approved caseload level and sufficient caseload to achieve the penetration potential of the next-ranked State to all applicant States, States participating in the final round of allocations shall receive assignments enabling them all to achieve the lesser

of the same level of penetration or their approved level.

(3) State agencies may request permission from FNS to convert specific numbers of excess caseload slots allocated under paragraph (a)(2)(ii) of this section to the service of elderly persons, subject to the time frames specified in § 247.5(a).

(4) State agencies which have received caseload under paragraph (a)(2)(v) of this section shall not be eligible during their first 12 months of operation to convert caseload to the service of elderly persons under paragraph (a)(3) of this section.

(5) Caseload made available to elderly persons under paragraphs (a)(2)(i) (except caseload equal to the level of participation of elderly persons in December 1985), (a)(2)(ii), (a)(2)(iv), and (a)(3) of this section may not be reserved exclusively for elderly persons, but shall be made equally available to women, infants, children, and elderly persons until all caseload available to the local agency, except caseload equal to December 1985 participation as referenced in paragraph (a)(2)(i) of this section, has been filled. At that time, the priority system under § 247.7(b)(2) shall be applied.

(b) *Administrative funding.* This subsection provides the policies and procedures for payment by FNS of funds for administrative costs to participating State agencies and disbursement by State agencies to local agencies. Funds shall be paid to State agencies as specified in § 247.9, Financial Management Systems. As a prerequisite to the receipt of such funds each fiscal year, the State agency shall have executed a written agreement with the Department and shall have received FNS approval of its State Plan.

(1) Funds for total State administrative costs for each fiscal year shall be allocated by FNS based on 15 percent of the sum of the annual appropriation for the program and the value of commodities provided without charge or credit by the Department to States and distributed by local agencies as part of, and in addition to, the food package.

(2) From the portion of program funds equal to 15 percent of the annual appropriation, each State shall receive an administrative grant proportionate to its share of the total caseload assigned. Each State agency shall receive its share of this funding on a quarterly basis.

(3) In addition to the funding provided under paragraph (b)(2) of this section, States shall receive administrative funding to support distribution of commodities provided without charge or credit by the Department to States and distributed as part of, and in addition to, the program food package. Prior to the beginning of each fiscal year, FNS shall estimate the value of such commodities expected to be distributed to participants by local agencies in each State during the fiscal year. Fifteen percent of this estimated amount shall be provided to each State agency. Funds provided under this paragraph shall be identified and accounted for by FNS separately from funds provided under paragraph (b)(2) of this section. After the end of the fiscal year, FNS shall compute the actual value of such commodities reported as distributed to participants by local agencies in each State. Unit values of such commodities shall be provided by the Agricultural Stabilization and Conservation Service. FNS shall make whatever adjustments are necessary to ensure that each State agency has received administrative funding equal to 15 percent of the value of such commodities reported as distributed to participants by its local agencies during the fiscal year.

(4) To ensure that State agencies can properly budget for program operations, FNS guarantees that 75 percent of the administrative funding provided to each State under paragraph (b)(2) of this section will be protected from recoveries during the current fiscal year.

(5) The State agency may retain a percentage of administrative funding for State level use, based on the following formula: 15 percent of the first $50,000; plus 10 percent of the next $100,000; plus 5 percent of the next $250,000. The State may retain a maximum amount of $30,000 annually for its administrative expenditures. However, if the State agency provides warehousing services, FNS approval may be requested at the beginning of the applicable fiscal year for funds greater than those allowed under the formula, provided that the State agency can document the need and ensure that the increase will not impose undue hardship on local agencies. The remaining funds and any unused funds at the State level shall be distributed to the local agencies.

(6) The State agency, in providing administrative funds to local agencies, shall apportion such funds among the local agencies on the basis of their respective needs so as to ensure that those local agencies evidencing higher administrative costs, while demonstrating prudent management and fiscal controls, receive a greater portion of the administrative funds.

(c) *Reallocation.* FNS reserves the right to periodically recover and redistribute unused caseload slots and unspent administrative funds (subject to the limitation in paragraph (b)(4) of this section). In the event that caseload slots are recovered, they shall be allocated in accordance with the order of funding established in § 247.10(a)(2).

* * * * *

6. Section 247.24 is added to read as follows:

§ 247.24 Temporary caseload assignment procedures.

(a) *General.* The following procedures shall apply only to caseload allocations for the first caseload cycle to begin after December 1, 1987.

(b) *Currently participating State agencies.* State agencies participating in the program in 1987 shall under § 247.10(a)(2)(i)–(iv) be allocated caseload for service to 145,000 women, infants, and children and 80,000 elderly persons.

(c) *Approved applicant State agencies.* Caseload remaining after allocations pursuant to paragraph (b) of this section shall be made available to all applicant State agencies with approved State Plans as of the date of caseload allocation in proportion to each State agency's caseload request as a percentage of the total caseload requested by all such State agencies.

Date: February 11, 1988.

Anna Kondratas,

Adminstrator.

[FR Doc. 88-3371 Filed 2-17-88; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-123]

Pink Bollworm Quarantine; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Technical amendment.

SUMMARY: We are correcting an error in the pink bollworm quarantine regulations concerning when fresh, edible okra is a regulated article.

EFFECTIVE DATE: February 18, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. E. E. Crooks, Port Operations Staff, PPQ, APHIS, USDA, Room 601, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8249.

SUPPLEMENTARY INFORMATION:

Background

As published in the 1986 Code of Federal Regulations:

a. Section 301.52(b)(11) lists okra as a regulated article; and

b. Section 301.52-2b (b) and (c) specify dates and destinations for which fresh, edible okra may be moved interstate with and without a certificate or limited permit.

Our proposed amendment of the regulations (published in the January 5, 1987, **Federal Register**, 52 FR 291-292, Docket No. 85-361) merged these lists. In preparing the final rule (published in the July 17, 1987, **Federal Register**, 52 FR 26942-26943, Docket No. 87-039), we revised the merged lists for the sole purpose of clarifying the meaning of fresh, edible okra. However, this revision also contained the following inadvertant change from the proposal, which was not noticed until after the final rulemaking was published:

a. Our proposal listed the dates and destinations for which certification of fresh, edible okra is required.

b. The final rulemaking listed the same dates and destinations as the proposal, but stated them as an exception instead of when the articles are regulated.

This change was not intended. We are issuing this correction to revise the regulations so that the destinations and exemption dates for fresh, edible okra are consistent with those in the proposal.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Pink bollworm, Transportation.

Accordingly, 7 CFR Part 301 is corrected to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

2. Paragraph (b)(10)(ii) of § 301.52 is revised to read as follows:

§ 301.52 Quarantine; restriction on interstate movement of specified regulated articles.

* * * * *

(b) * * *

(10) * * *

(ii) Fresh, edible fruits of okra:

(A) During December 1 through May 15 if moved interstate, but only during January 1 through March 15 if moved to California.

(B) During May 16 through November 30, if moved interstate to any portion of Illinois, Kentucky, Missouri, or Virginia that is north of the 38th parallel; or to any destination in Colorado, Connecticut Delaware, District of Columbia, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming.

Done at Washington, DC, this 11th day of February 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-3363 Filed 2-17-88; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

[Docket No. 87-170]

Suspension of Regulations on Exclusive Use of the Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that suspended the current regulations on applying for special authorization for the exclusive use of the Harry S Truman Animal Import Center (HSTAIC) pending the completion of further rulemaking proceedings.

EFFECTIVE DATE: March 21, 1988.

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

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on September 18, 1987, and effective September 15, 1987 (52 FR 35230-35231, Docket Number 87-122), we suspended § 92.41(b), "Procedures for special authorization for exclusive use of the HSTAIC," pending completion of rulemaking that will propose to revise the regulations on importing animals through HSTAIC. We will accept no application for exclusive use of HSTAIC until the rulemaking proceeding concerning the changes to be proposed in the regulations is completed.

Comments on the interim rule were required to be postmarked or received on or before November 17, 1987, in order to be considered. We received one comment, which did not address the specific provisions of our interim rule. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

The system in the suspended regulations for exclusive use of HSTAIC created substantial controversy and practical problems in its administration; and we believe the system should be changed to be effective and avoid charges of inequitable treatment.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

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

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

Accordingly, we are adopting as a final rule, without change, the interim rule that removed § 92.41(b) and that was published at 52 FR 35230–35231 on September 18, 1987.

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

Done in Washington, DC, this 11th day of February 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–3362 Filed 2–17–88; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 703

Organization and Operations of Federal Credit Unions; Investment and Deposit Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final amendments.

SUMMARY: The Secondary Mortgage Market Enhancement Act of 1984 ("SMMEA"), Pub. L. 98–440, amended section 107 of the Federal Credit Union Act by inserting new sections 107(15) (A) and (B). These final amendments implement these sections of the Act. Section 107(15)(B), which authorizes FCU's to invest in certain privately-issued, mortgage-related securities, is implemented by amendment to NCUA's investment rule (Part 703 of NCUA's regulations.) As a result, these investments are subject to the same rules governing other similar FCU investments. Section 107(15)(A), which authorizes FCU's to purchase certain mortgage notes, is implemented by amendment to NCUA's rule concerning purchase of eligible obligations (section 701.23). As a result, this authority may be used to purchase real estate-secured loans to complete a pool of loans for packaging and sale or pledge on the secondary market.

EFFECTIVE DATE: February 18, 1988.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington DC 20456.

FOR FURTHER INFORMATION CONTACT: Timothy P. McCollum, Assistant General Counsel, or Julie Tamuleviz, Staff Attorney, at the above address, or telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Background

Section 105(b) of SMMEA amended section 107 of the Federal Credit Union Act by inserting sections 107(15) (A) and (B), authorizing FCU's to invest in securities that:

(A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

(B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

On July 22, 1987, the NCUA Board requested comment on several safety and soundness issues relating to the power granted to FCU's by SMMEA. The Board also sought comments on the manner in which NCUA should regulate that power. *See* 52 F.R. 27994 (July 27, 1987). NCUA there stated its preliminary views: (a) That section 107(15) is not self-implementing; (b) that the section 107(15)(A) investment authority is limited to notes of the purchasing FCU's members.

Approximately 39 comments were received in response to the "Request for Comments." Comment letters were received from: 21 FCU's, 3 state-chartered credit unions, 4 state credit union leagues, 2 credit union trade associations and one other trade association, the credit union division of one state, 2 investment management companies, 3 broker/dealers, one federally-chartered corporation involved in the secondary market for home mortgages, and one individual.

Some commenters criticized both of NCUA's preliminary views. Since the NCUA Board is now providing implementing authority, the question whether section 107(15) is self-implementing is moot.

As to section 107(15)(A), the NCUA Board has been persuaded by the comments received that the power is not limited to notes of a purchasing FCU's members. As further explained below, however, the authority is limited to purchasing notes for the purpose of selling or pledging a pool of loans on the secondary market.

Section 107(15) (B) Authority

The majority of the commenters focused on the section 107(15) (B) authority. This section authorizes FCU's to invest in "privately-issued mortgage related securities" as that term is defined in section 3(a) (41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (41). While the Securities Exchange Act sets forth limitations on this authority, perhaps the most significant is that these investments are limited to securities rated in one of the two highest rating categories by at least one nationally-recognized statistical rating organization. Responsibility for clarifying the instruments included within the authority is primarily entrusted to the Securities and Exchange Commission.

Comments received on the section 107(15) (B) power were diverse; some commenters recommended NCUA significantly restrict such investments; other urged the Agency merely to issue guidelines explaining the types of permissible investments and the safety and soundness issues associated with them.

The Board believes these investments have sufficient safeguards against excessive risk—primarily in the requirement that the security be "rated in one of the two highest rating categories by at least one nationally-recognized statistical rating organization"—not to require significant restrictions at this time. Imposition of a separate regulatory limitation on these investments would not be consistent with the Agency's policy to permit each FCU maximum flexibility in designing a safe and sound investment strategy suitable to its needs. Such investments do present safety and soundness issues, however—e.g., risks related to credit, interest rate, asset/liability management, and liquidity. The NCUA Board is therefore issuing guidelines (Letter to Credit Unions No. 95) to all Federal credit unions to assist them in making their investment decisions.

Section 107(15) (A) Authority

Section 107(15) (A) authorizes FCU's to invest in mortgage notes offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)). This section of the Securities Act establishes certain limitations on the authority, including that the notes be "secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential or commercial structure." There is, however, no limitation as to the borrower on the notes.

Thus, section 107(15) (A) might appear to authorize FCU's to purchase real estate-secured notes made by other lenders, even though the loan was made

to a nonmember of the FCU and on other terms and conditions (loan amount, maturity, rate, prepayment penalties, etc.) that are not authorized for loans made by FCU's. Due to concern that this authority was difficult to reconcile with basic provisions of the FCU Act and NCUA's Rules and Regulations concerning membership and lending limitations, NCUA had stated, in its request for comments, that the authority would be limited to the purchase of notes of the purchasing FCU's members.

After review of the comments, the Board has determined that the authority is not limited to notes of a purchasing FCU's members, and that the authority can be reconciled with other statutory and regulatory provisions by limiting its exercise to circumstances where the FCU makes real estate-secured loans on an ongoing basis and the purchase is for the purpose of completing a pool of loans for sale or pledge on the secondary market.

Accordingly, section 107(15)(A) is being implemented by amendment to § 701.23 of NCUA's regulations, "Purchase, Sale, and Pledge of Eligible Obligations." Specifically, § 701.23(b)(1)(iv), which authorized FCU's to purchase real estate loans for the purpose of packaging a pool of loans, is being amended to delete the reference to loans made pursuant to NCUA's long-term first mortgage loan regulation (section 701.21(g)). Thus, an FCU with an ongoing program of making real estate-secured loans may purchase comparable loans (long-term first mortgages or otherwise) from other lenders for the purpose of packaging a pool of loans for sale or pledge on the secondary market.

Conclusion

In summary, the section 107(15) authority is implemented as follows. The authority to invest in privately-issued mortgage-related securities (section 107(15)(B)) is implemented by amendment of NCUA's investment regulation (Part 703). No new regulations are being imposed. The authority is limited by NCUA regulation only to the same extent as other investments and deposits. Letter Number 95, which is being mailed to all FCU's concurrently with the rule, explains the limitations of the Securities Exchange Act and provides safety and soundness of guidelines. The authority to invest in mortgage notes (section 107(15) (A)) is implemented by amendment of NCUA's regulation on purchase of eligible obligations (section 701.23). The authority is thus limited to purchasing notes to complete the packaging of a pool of loans to be sold or pledged on the secondary market.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that these amendments will not have a significant economic impact on a substantial number of small credit unions. The Board does not anticipate investment by small credit unions pursuant to section 107(15)(A) or (B) of the FCU Act. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

These amendments do not impose any additional paperwork requirements.

List of Subjects in 12 CFR Part 703

Credit unions, Investments, Mortgage related-securities, Mortgages, Notes.

By the National Credit Union Administration Board on February 10, 1988.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 12 U.S.C. 1756, 12 U.S.C. 1757, 12 U.S.C. 1759, 12 U.S.C. 1761a, 12 U.S.C. 1761b, 12 U.S.C. 1766, 12 U.S.C. 1767, 12 U.S.C. 1782, 12 U.S.C. 1784, 12 U.S.C., 1787, 12 U.S.C. 1789, and 12 U.S.C. 1798.

§ 701.23 [Amended]

2. Section 701.23(a)(3) is removed.

3. Section 701.23(b)(1)(iv) is revised to read as follows:

* * * * *

(b) * * *

(1) * * *

(iv) Real estate-secured loans, from any source, if the purchaser is granting real estate-secured loans pursuant to § 701.21 on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortage market.

* * * * *

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

1. The authority citation for Part 703 is revised to read as follows:

Authority: 12 U.S.C. 1757(7), 12 U.S.C. 1757(8), 12 U.S.C. 1757(15), 12 U.S.C. 1766(a), and 12 U.S.C. 1789(a)(11).

2. Section 703.1 is revised to read as follows:

§ 703.1 Scope.

Sections 107(7), 107(8) and 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(7), 1757(8), 1757(15)), set forth those securities, deposits, and other obligations in which Federal credit unions may invest. Included are securities issued or fully guaranteed by the United States Government or any of its agencies, shares of central credit unions and any federally-insured credit union, accounts in other federally-insured financial institutions, certain mortgages and mortgage-related securities, and other specified investments. This Part interprets several of the provisions of sections 107(7), 107(8) and 107(15)(B). It also places limits on the types of transactions that Federal credit unions may enter into in connection with the purchase and sale of authorized securities, deposits, and obligations under sections 107(7), 107(8) and 107(15)(B). This Part does not apply to investments in loans to members, which are governed by §§ 701.21, 701.22 and 701.23 (12 CFR 701.21, 701.22 and 701.23) nor does it apply to the purchase of real estate-secured loans pursuant to section 107(15)(A), which is governed by § 701.23. Other sections of NCUA's regulations affect certain specific investments. For example, investments in credit union service organizations are subject to § 701.27 (12 CFR 701.27), and investments in fixed assets are subject to § 701.36 (12 CFR 701.36).

3. Section 703.2(o) is revised to read as follows:

§ 703.2 [Amended]

* * * * *

(o) *Security* means any security, obligation, account, deposit, or other item authorized for investment by a Federal credit union pursuant to sections 107(7), 107(8), or 107(15)(B) of the Federal Credit Union Act (12 U.S.C. 1757(7), 1757(8), 1757(15)(B)), other than loans to members.

* * * * *

[FR Doc. 88-3401 Filed 2-17-88; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Parts 701 and 748

Organization and Operations of Federal Credit Unions; Report of Crime or Catastrophic Act and Bank Secrecy Act Compliance

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final repeal of and amendment to existing regulations.

SUMMARY: The NCUA Board is repealing its regulation concerning establishment of a cash fund (12 CFR 701.10) and amending its regulation concerning security programs (12 CFR 748.0). Section 701.10 is being deleted because it duplicates other provisions in the Federal Credit Union ("FCU") Act and FCU Bylaws. Section 748.0, which addresses implementation of security programs to protect FCU's from criminal actions, is being amended to include requiring security against embezzlement, a crime commonly associated with loss to a cash fund.

EFFECTIVE DATE: February 10, 1988.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Deputy General Counsel, at the above address, or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 107(12) of the FCU Act 12 U.S.C. 1757(12), authorizes FCU's:

> in accordance with rules and regulations prescribed by the Board, to sell to members negotiable checks (including travelers checks) money orders and other similar money transfer instruments; and to cash checks and money orders for members, for a fee.

Article XV, Section 3, of the Standard FCU Bylaws states:

> A cash fund may be authorized by the [FCU] board by resolution for the purpose of making change, and for such other purposes as prescribed in the *Accounting Manual for Federal Credit Unions*.
>
> The board may authorize by resolution the establishment of a petty cash fund for postage, and for defraying other expense items in amounts of less than $10.

Section 701.10 of NCUA's Rules and Regulations ("Establishment of a Cash Fund") 12 CFR 701.10 provides:

> The board of directors of a Federal credit union may authorize the establishment of or changes in a cash fund for making change, cashing checks, or other purposes. Before such authorization is given, the directors will consider whether a need for the fund exists and will insure that adequate safeguards and accountability will exist to protect the fund.

Section 701.10 has been in existence unchanged since January 29, 1969. (34 FR 1398).

Section 748.0 ("Security Program") states:

> (a) Each federally-insured credit union will develop a written security program within 90 days of the effective date of insurance.
>
> (b) The security program will be designed to protect each credit union office from robberies, burglaries, and larcenies; to prevent destruction of vital records as defined in the *Accounting Manual for Federal Credit Unions;* and to assist in the identification of persons who commit or attempt such crimes.

On November 12, 1987, the NCUA Board, as part of its continuing review of NCUA regulations, proposed to eliminate § 701.10 and to add "embezzlement" to the list of crimes against which an FCU would have to secure. The Board explained: (a) The first sentence of § 701.10 was unnecessary in light of the language of section 107(12) of the FCU Act (12 U.S.C. 1757(12)) and of Article XV, Section 3, of the Standard FCU Bylaws; (b) the provisions of the second sentence more properly belonged in § 748.0, relating to security precautions; and (c) with the addition of "embezzlement" to the list of crimes an FCU must secure against, § 748.0 would provide adequate guidance to FCU's.

Three comments were received. All supported the proposal, although one suggested more extensive changes to § 748.0. The Board will consider these when undertaking its regulatory review of that provision.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the amendment and repeal of these regulations will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets). The action eliminates and clarifies NCUA Regulations. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The changes do not impose any additional paperwork requirements.

List of Subjects in 12 CFR Parts 701 and 748

Credit unions, Cash fund, Embezzlement, Security programs.

By the National Credit Union Administration Board on February 10, 1988.

Becky Baker,

Secretary of the Board.

Accordingly, the NCUA amends its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and 1798.

§ 701.10 [Removed]

2. Section 701.10 is removed.

PART 748—REPORT OF CRIME OR CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

3. The authority citation for Part 748 continues to read as follows:

Authority: 12 U.S.C. 1766(a).

4. Section 748.0(b) is amended to read as follows:

§ 748.0 [Amended]

* * * * *

(b) The security program will be designed to protect each credit union office from robberies, burglaries, larcenies and embezzlement; to prevent destruction of vital records as defined in the *Accounting Manual for Federal Credit Unions;* and to assist in the identification of persons who commit or attempt such crimes.

[FR Doc. 88-3402 Filed 2-17-88; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 87-AWP-33]

Alteration of Restricted Areas; California and Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Areas R-2511, R-2510, R-2518 and R-2503 located in California and R-3103 located in Hawaii, indicating more accurately when the areas are being utilized. This action will reduce the time the restricted areas are in effect.

EFFECTIVE DATE: 0901 UTC, May 5, 1988.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, 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) 267-9254.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the times of use for Restricted Areas R-2511, R-2510, R-2518 and R-2503 located

in California and R-3103 located in Hawaii. This amendment would amend the time of designation to reflect actual times of use and would reduce the time the restricted areas are in effect. Because this amendment does not affect the configuration of any special use airspace and because the public would not be particularly interested in this rule, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Sections 73.25 and 73.31 of Part 73 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R-2511 Fort Ord, CA [Amended]

Remove the present Time of designation and substitute the following:

Time of designation. 0600-2300 local time Monday-Friday; other times by NOTAM at least 12 hours in advance.

R-2510 El Centro, CA [Amended]

Remove the present Time of designation and substitute the following:

Time of designation. 0600-2300 local time daily; other times by NOTAM at least 24 hours in advance.

R-2518 Castle Rock, CA [Amended]

Remove the present Time of designation and substitute the following:

Time of designation. Intermittent, activated by NOTAM at least 24 hours in advance.

R-2503 Camp Pendleton, CA [Amended]

Remove the present Time of designation and substitute the following:

Time of designation. 0600-2400 local time daily; other times by NOTAM at least 24 hours in advance.

§ 73.31 [Amended]

3. Section 73.31 is amended as follows:

R-3103 Humuula, HI [Amended]

Remove the present Time of designation and substitute the following:

Time of designation. Intermittent, activated by NOTAM at least 12 hours in advance.

Issued in Washington, DC, on February 8, 1988.

Robert G. Burns,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88-3358 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Airspace Docket No. 87-AWA-31; SFAR 51-1]

Special Flight Rules in the Vicinity of Los Angeles International Airport; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This correction deletes an inadvertent reference to the Los Angeles Sectional Chart in the preamble to the rule establishing a Special Flight Rules Area over Los Angeles International Airport.

In rule document 88-2596 beginning on page 3810 in the issue of Tuesday, February 9, 1988, make the following correction:

On page 3811, in the first column, in the first full paragraph, in the twelfth and thirteenth lines remove the words "the Los Angeles Sectional Chart, and"

Issued in Washington, DC, on February 11, 1988.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 88-3357 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25529; Amdt. No. 1367]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by Reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on February 5, 1988.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97-25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 92.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective May 5, 1988

Hayden, CO—Yampa Valley, VOR-A, Amdt. 3
Hayden, CO—Yampa Valley, VOR/DME-B, Orig.
Hayden, CO—Yampa Valley, ILS/DME RWY 10, Amdt. 1
Kailua/Kona, HI—Keahole, LOC RWY 17, Amdt. 5
Lincolnton, NC—Lincoln County, NDB RWY 23, Orig.
Hayward, WI—Hayward Muni, NDB RWY 20, Amdt. 10
Superior, WI—Richard I. Bong, NDB RWY 31, Amdt. 3
Rawlins, WY—Rawlins Muni, VOR RWY 22, Amdt. 1
Rawlins, WY—Rawlins Muni, NDB-A, Amdt. 9

. . . Effective April 7, 1988

San Francisco, CA—San Francisco Intl, ILS RWY 28L, Amdt. 17
San Francisco, CA—San Francisco Intl, ILS RWY 28R, Amdt. 7
Lincoln, CA—Lincoln Muni, VOR RWY 15, Amdt. 3
Gunnison, CO—Gunnison County, VOR-A, Amdt. 5
Gunnison, CO—Gunnison County, LOC/DME 1 RWY 6, Amdt. 1
Washington, DC—Dulles Intl, ILS RWY 1R, Amdt. 19
Bonifay, FL—Tri County, NDB-A, Orig.
Toccoa, GA—Toccoa RG Letourneau Field, VOR RWY 20, Amdt. 11
Dodge City, KS—Dodge City Muni, VOR RWY 14, Amdt. 16
Jackson, KY—Julian Carroll, VOR/DME RWY 1, Orig.
Detroit, MI—Willow Run, VOR RWY 5R, Amdt. 9, CANCELLED
Detroit, MI—Willow Run, VOR RWY 23L, Amdt. 7, CANCELLED
Holland, MI—Park Township, NDB RWY 5, Amdt. 1, CANCELLED
Sault Ste. Marie, MI—Chippewa County Intl, ILS RWY 16, Amdt. 5
Cambridge, MN—Cambridge Muni, NDB RWY 34, Amdt. 5
Maple Lake, MN—Maple Lake Muni, VOR-A, Amdt. 2
Norwich, NY—Lt. Warren Eaton, RNAV RWY 19, Amdt. 1
Burlington, NC—Burlington Muni, VOR RWY 9, Amdt. 6
Mount Vernon, OH—Knox County, VOR-A, Amdt. 6
Lancaster, PA—Lancaster, VOR RWY 8, Amdt. 17
Greer, SC—Greenville-Spartanburg, NDB RWY 3, Amdt. 14
Greer, SC—Greenville-Spartanburg, ILS RWY 3, Amdt. 18
Greer, SC—Greenville-Spartanburg, ILS RWY 21, Amdt. 2
Greer, SC—Greenville-Spartanburg, RNAV RWY 21, Amdt. 5
Sumter, SC—Sumter Muni, RADAR-1, Amdt. 7
Houston, TX—Houston Intercontinental, ILS RWY 9, Amdt. 2
Palestine, TX—Palestine Muni, VOR/DME RWY 17, Orig.

Palestine, TX—Palestine Muni, NDB RWY 17, Amdt. 1
Palestine, TX—Palestine Muni, NDB RWY 35, Amdt. 5
Buffalo, WY—Johnson County, VOR/DME RWY 30, Amdt. 3

. . . *Effective March 10, 1988*

Morristown NJ—Morristown Muni, ILS RWY 23, Amdt. 6
Binghamton, NY—Edwin A. Link Field Broome County, ILS RWY 16, Amdt. 3
Winchester, VA—Winchester Regional, LOC/DME RWY 32, Orig.

The FAA published an Amendment in Docket No. 25466, Amdt. No. 1362 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 237 Page 46744; dated Thursday, December 10, 1987) under § 97.27 effective March 10, 1988, which is hereby amended as follows:

Eastman, GA—Eastman-Dodge County, NDB RWY 2 should read Eastman, GA—Eastman-Dodge County, NDB RWY 2, Orig.

The FAA published an Amendment in Docket No. 25515, Amdt. No. 1365 to Part 97 of the Federal Aviation Regulations (VOL 53 FR No. 22 Page 3012; dated Wednesday, February 3, 1988) under § 97.23 effective February 11, 1988, which is hereby amended as follows:

Rockport, TX—Aransas Co, VOR/DME or TACAN-A, Amdt. 6 EFF 11 FEB 88, should read
Rockport, TX Aransas Co, VOR/DME or TACAN-A, Amdt. 6, EFF 10 MAR 88.

[FR Doc. 88-3372 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Xylazine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for the use of xylazine hydrochloride injection for sedation and preanesthetic to local or general anesthesia in horses.

EFFECTIVE DATE: February 18, 1988.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., 7410 NW. Tiffany Springs Parkway, P.O. Box 901350, Kansas City, MO 64190-1350, filed NADA 140-442, which provides for the use of a xylazine hydrochloride injection containing 100 milligrams of xylazine base per milliliter. The drug is for intravenous or intramuscular use by or on the order of a licensed veterinarian for sedation or as a preanesthetic to local or general anesthesia in horses. The NADA is approved and the regulations in 21 CFR 522.2662(b) are revised to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.2662 is amended by revising paragraph (b) to read as follows:

§ 522.2662 Xylazine hydrochloride injection.

* * * * *

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter for use in horses, wild deer, elk, dogs, and cats. See No. 013983 in § 510.600(c) of this chapter for use in horses only.

* * * * *

Dated: February 9, 1988.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 88-3374 Filed 2-17-88; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans' Education; Amendments to Veterans' Job Training Act

AGENCY: Veterans' Administration.

ACTION: Final regulations.

SUMMARY: The Stewart B. McKinney Homeless Assistance Act of 1987 contains provisions which extend the deadline for a veteran to apply for training under the Veterans' Job Training Act to December 31, 1987, and extend the deadline for beginning the job training program to June 30, 1988. The regulation which states these two deadlines is amended to reflect these new provisions of law.

EFFECTIVE DATE: July 22, 1987.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration (225), Vocational Rehabilitation and Education Service, Department of Veterans' Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2092.

SUPPLEMENTARY INFORMATION: Pub. L. 100-77, the Stewart B. McKinney Homeless Assistance Act of 1987, contains two provisions which affect the Veterans' Job Training Act. The deadline for a veteran to apply for training has been extended to December 31, 1987. The deadline for beginning a training program has been extended to June 30, 1988. The Veterans Administration (VA) is adopting amendments to § 21.4632(e) which will implement these provisions of law.

The VA finds that good cause exists for making the amended regulation final without previous publication of a notice of proposed rulemaking. The changes contained in the regulation are directly based upon the law. The VA must make the Code of Federal Regulations agree with the law. Public participation in this rulemaking is, therefore, unnecessary (5 U.S.C. 553(b)(B)).

Since a Notice of Proposed Rulemaking is unnecessary and will not be published, this change does not come within the term "rule" as defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2), and is, therefore, not subject to the requirements of that act. Nevertheless, these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. Although small entities will be affected by the extention of the Veterans' Job Training Act, all the effects will derive from the change in the law upon which the regulations are based. The regulations themselves will have no effect upon small entities.

The VA finds that good cause exists for making the amended regulation, like the section of the law it implements, retroactively effective on July 22, 1987. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement the provision of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of the provision of law; and might result in denial of a benefit to a veteran who is entitled by law to it (5 U.S.C. 553(d)(3)).

The VA has determined that the amended regulation does not contain a major rule as the term is defined by Executive Order 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.121.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 14, 1988.

Thomas K. Turnage,

Administrator.

For the reasons set out in the preamble, 38 CFR Part 21, Vocational Rehabilitation and Education, is amended as set forth below.

PART 21—[AMENDED]

In § 21.4632, paragraphs (e)(2)(i) and (e)(2)(ii) are revised to read as follows:

§ 21.4632 Payments.

* * * * *

(e) * * *

(2) * * *

(i) On behalf of any veteran who initially applies for a job training program after December 31, 1987;

(ii) For any job training program which begins after June 30, 1988;

(Authority: Pub. L. 98–543, sec. 212; Pub. L. 99–108; Pub. L. 99–238, sec. 201(e); Pub. L. 100–77, sec. 901(b))

* * * * *

[FR Doc. 88–3458 Filed 2–17–88; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 964

Rules of Practice Governing Disposition of Mail Withheld From Delivery

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is modifying certain portions of its new rules of practice pertaining to the disposition of mail withheld from delivery pursuant to 39 U.S.C. 3003 and 3004. The major modification adds a procedure for final disposition in the event the addressee fails to oppose within the established timeframe a notice of detention from the Chief Postal Inspector or his delegate. The existing rules had failed to provide for a final disposition procedure in the event the addressee elected not to oppose an action withholding his mail. This modification remedies that omission. The other three modifications clarify the rules to indicate clearly that authority to issue the final agency decision and order is vested with the Judicial Officer. While the rules implied that such authority existed it was felt that any misunderstandings or confusion in this area would be alleviated by clearly defining the Judicial Officer's authority.

EFFECTIVE DATE: February 18, 1988.

FOR FURTHER INFORMATION CONTACT: James D. Finn, Jr., 202–268–2133.

List of Subjects in 39 CFR Part 964

Administrative practice and procedure, Postal Service, Fraud, Lotteries, Fictitious names or addresses.

PART 964—[AMENDED]

1. The authority citation for Part 964 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3003, 3004.

2. In § 964.3, paragraph (a) is amended by adding at the end thereof the following:

§ 964.3 Customer petitions; notice of hearing; answer; summary judgment.

(a) * * The failure of an addressee who has received notice of withheld mail to file a Petition opposing such action with the Judicial Officer shall constitute a waiver of hearing and further procedural steps by the addressee. The General Counsel of the Postal Service shall thereupon file the matter with the Judicial Officer for issuance of a final order pursuant to § 964.19. Such referral shall contain a statement of the basis for the detention, evidence that the notice of the detention and the addressee's right to petition for review under this part were served on the addressee in person or by mailing a copy to the address to which the detained mail is directed, the date of such service, and a copy of the proposed order sought by the General Counsel.

* * * * *

3. In § 964.6, revise the first sentence to read as follows:

§ 964.6 Default.

If a Petitioner fails to appear at the hearing without notice or without adequate cause the presiding officer may issue an order dismissing the Petition and refer the matter to the Judicial Officer for issuance of the order provided for under § 964.19. * * *

§ 964.17 [Amended]

4. In § 964.17, add the words "and order" after the word "decision".

§ 964.19 [Amended]

5. In § 964.19, in the first sentence, add the words "by the Judicial Officer" after the word "issued".

James A. Cohen,

Judicial Officer.

[FR Doc. 88–3378 Filed 2–17–88; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3326-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting an error presented in a final rule granting exclusion for wastes generated at three facilities which appeared in the **Federal Register** on August 15, 1986 (51 FR 29217). For one petitioner addressed in that rule, Reynolds Metals Company, the facility location shown in Table 1 was erroneously stated as Portageville, Missouri. The proper location for the Reynolds facility being granted the exclusion should be Sheffield, Alabama, as correctly identified in the narrative of the notice.

EFFECTIVE DATE: August 15, 1986.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Mr. Terry Grist, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4782.

SUPPLEMENTARY INFORMATION:

This correction notice revises the location of the Reynolds Metals Company facility cited in "Table 1-Wastes Excluded from Non-Specific Sources" of the August 15, 1986 final rule.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: February 1, 1988.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22 [Amended]

2. Part 261, Appendix IX, Table 1, is amended by revising the "Reynolds Metals Company" entry as follows:

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
Reynolds Metals Company.	Sheffield, Alabama.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after August 15, 1986.
* * *	* * *	* * *

[FR Doc. 88-2916 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3329-3]

Indiana; Schedule of Compliance for Modification of Indiana's Hazardous Waste Program

AGENCY: Region V, Environmental Protection Agency.

ACTION: Notice of Indiana's Compliance Schedule to Adopt Program Modifications for Section 3006(f) of the Hazardous and Solid Waste Amendments of 1984 (HSWA).

SUMMARY: On September 22, 1986, the United States Environmental Protection Agency (EPA) promulgated amendments to the deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a revised compliance schedule for Indiana to modify its program in accordance with § 271.21(g) of Title 40 of the Code of Federal Regulations (40 CFR 271.21(g)) to adopt the Federal program modifications for section 3006(f) of the Hazardous and Solid Waste Amendments of 1984 (HSWA). This schedule supersedes the compliance schedule for Indiana that was published in the **Federal Register** on April 24, 1987.

FOR FURTHER INFORMATION CONTACT: George Woods, Indiana Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Waste Management Division, Solid Waste Branch, 5HS-JCK-13, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6134.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006(f) of HSWA requires that no State program may be authorized by the Administrator under this section, unless: (1) Such program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste; and (2) such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator were carrying out the provisions of this subtitle in such State. The schedule for adoption of section 3006(f) was July 1, 1986, the States which only needed to make regulatory changes. For States needing statutory changes, the deadline was July 1, 1987. 40 CFR 271.21(e)(3) states that deadlines for program modification may be extended six months by the Regional Administrator for good cause. In addition, 40 CFR 271.21(g)(1) provides that if a State is unable to meet the extended deadline, it may be placed on a one year schedule of compliance to achieve the needed modifications.

B. Indiana

On July 24, 1986, Indiana requested a 6-month extension to adopt the Non-HSWA Cluster I rules which include the single HSWA provision for section 3006(f). On August 15, 1986, EPA approved the State's request and granted an extension of the adoption deadline to March 1987. In a notice on April 24, 1987, EPA published in the **Federal Register**, a compliance schedule for the State of Indiana to adopt the needed program modifications to obtain authorization for HSWA section 3006(f). That action notice expressly stipulated that the published schedule was contingent upon a determination by Indiana's Attorney General (A.G.) that no statutory change was needed to obtain authorization for section 3006(f) of HSWA. Moreover, the notice further stipulated that if it were determined that statutory changes are needed as a result of the A.G.'s review then EPA and the Indiana Department of Environmental Management (IDEM) would renegotiate the schedule, with EPA publishing it in the **Federal Register**.

In a letter dated August 24, 1987, IDEM officially notified EPA that the A.G. had determined that a statutory change is needed in order to adopt the reduction or waiver of fee provisions of 40 CFR 2.120(d). These provisions are required for section 3006(f) authorization. Accordingly, EPA and IDEM have negotiated a revised

schedule of compliance for section 3006(f).

The State has agreed to obtain the needed program revisions according to the following schedule which combines both statutory and regulatory development:

Statutory change proposed to Governor, September 1987
Statute drafted by the Legislative Service Agency, November 1987
Indiana General Assembly considers the Statute, January 1988
Submit draft rule to EPA for review, February 1988
Submit draft rule to the Solid Waste Management Board, March 1988
Statute signed by the Governor, March 1988
Public Hearing on Proposed rule, June 1988
Statutory change effective, July 1988
Submit the final rule to the Indiana Solid Waste Management Board for adoption, August 1988
Submit draft revision application to EPA, September 1988
Rule effective and final application submitted to EPA, December 1988.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(B).

Charles H. Sutfin,

Acting Regional Administrator.

[FR Doc. 88-3430 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1011, 1181 and 1186

[Ex Parte No. MC-111 (Sub-1)]

Applications To Transfer Operating Rights of Motor Property et al.

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts final rules revising its regulations at 49 CFR Part 1181 governing applications under 49 U.S.C. 10321 and 10926 to transfer operating rights of motor property and passenger carriers, water carriers, holders of Certificates of Registration, household goods freight forwarders, and property brokers. Transfers of motor property authority under 49 U.S.C. 10926, formerly governed by regulations at 49 CFR Part 1186, are included now at Part 1181. Conforming changes at Part 1186 are made. The Commission also eliminates its regulations at 49 CFR 1181.32 governing changes in control of property brokers, and revises its procedures for carrier name changes (formerly at 49 CFR Part 1181, Subpart E). Finally, the Commission has provided for the consideration of safety fitness as a substantive issue in deciding whether to approve transfers under section 10926 and to grant exemptions under section 1134(e) for the purchase or merger of motor carrier authority. The latter transactions continue to be governed by the regulations at Part 1186. The final rules are set forth below. Corresponding revisions have been made to application Form OP-FC-1, used to effect small carrier transfers, and are contained in the appendix.

EFFECTIVE DATE: This action will be effective on March 21, 1988.

FOR FURTHER INFORMATION CONTACT:

Jasneth C. Metz, (202) 275-7974
or
Richard Felder, (202) 275-7691
[TDD for hearing impaired: (202) 275-1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area) (assistance for the hearing impaired is available through TDD services at (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Environmental and Energy Considerations

The rules adopted here will not affect significantly the quality of the human environment or energy conservation.

Regulatory Flexibility Analysis

We confirm our preliminary assessment and certify that the revised regulations will have a significant positive economic impact on a number of small entities, specifically motor property and passenger carriers, water carriers, property brokers, and household goods freight forwarders, because they will expedite small carrier transfer proceedings and, in turn, hasten availability of improved competitive service to shippers and passengers. The rules will not impose additional reporting, recordkeeping, or compliance requirements on small entities, except to the limited extent carriers are required to certify their safety ratings. The informational requirements for water carriers and household goods freight forwarders have been appreciably reduced, and the filing requirements for transfers of passenger broker authority and for changes in control of property broker authority have been eliminated.

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Motor Carriers.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations, Organization and functions.

49 CFR Part 1181

Administrative practice and procedure, Brokers, Freight forwarders, Maritime carriers, Motor carriers.

49 CFR Part 1186

Administrative practice and procedure, Freight forwarders, Motor carriers.

Decided: February 2, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioners Simmons and Lamboley dissented in part with separate expressions.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1003—LIST OF FORMS

1. The authority citation for Part 1003 continues to read:

Authority: 5 U.S.C. 551(a) and 553(1)(c), and 49 U.S.C. 10321.

§ 1003.2 [Amended]

2. The entry for OP-FC-1 in § 1003.2 is revised to read as follows:

OP-FC-1.

Applications in proceedings (other than those under 49 U.S.C. 11343) for transfer or lease of:

(1) Motor carrier Certificates of Registration issued pursuant to 49 U.S.C. 10931;

(2) Motor common and contract carrier operating rights issued pursuant to 49 U.S.C. 10922 and 10923, respectively;

(3) Property broker licenses issued pursuant to 49 U.S.C. 10924;

(4) Household goods freight forwarder permits issued pursuant to 49 U.S.C. 10923; and

(5) Water common and contract carrier operating rights issued pursuant to 49 U.S.C. 10922 and 10923, respectively.

* * * * *

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

3. The authority citation for Part 1011 continues to read:

Authority: 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10301, 10302, 10304, 10305, and 10321.

4. Section 1011.6(i)(5) is revised to read as follows:

§ 1011.6 Employee boards.

* * * * *

(i) * * *

(5) Determination of applications, which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under:

(i) 49 U.S.C. 10321, relating to the transfer of brokers' licenses; and

(ii) 49 U.S.C. 10931 and 10932, relating to the transfer of Certificates of Registration and rights to operate pending determination of applications for Certificates of Registration.

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

5. Part 1181 is revised to reads as follows:

Sec.
1181.0 Scope of rules.
1181.1 Definitions.
1181.2 Applications.
1181.3 Notice.
1181.4 Commission action and criteria for approval.
1181.5 Responsive pleadings.
1181.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

Authority: 5 U.S.C. 553, and 49 U.S.C. 10321 and 10926.

§ 1181.0 Scope of rules.

These rules define the procedures that enable motor passenger and property carriers, water carriers, property brokers, and household goods freight forwarders to obtain approval from the Interstate Commerce Commission to merge, transfer, or lease their operating rights in financial transactions not subject to 49 U.S.C. 11343. Transactions covered by these rules are governed by 49 U.S.C. 10321 and 10926. The filing fee is set forth at 49 CFR 1002.2(f)(25).

§ 1181.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Transfer.* Transfers include all transactions (*i.e.*, the sale or lease of interstate operating rights,[1] or the merger of two or more carriers or a carrier into a noncarrier) subject to 49 U.S.C. 10926, as well as the sale of property brokers' licenses under 49 U.S.C. 10321.

(b) *Operating rights.* Operating rights include:

(1) Certificates and permits issued to motor and water carriers;

(2) Permits issued to household goods freight forwarders;

(3) Licenses issued to property brokers; and

(4) Certificates of Registration issued to motor carriers. The term also includes authority held by virtue of the gateway elimination regulations published in the **Federal Register** as letter-notices.

(c) *Certificate of registration.* The evidence of a motor carrier's right to engage in interstate or foreign commerce within a single State is established by a corresponding State certificate.

(d) *Person.* An individual, partnership, corporation, company, association, or other form of business, or a trustee, receiver, assignee, or personal representative of any of these.

(e) *Record holder.* The person shown on the records of the Commission as the legal owner of the operating rights.

(f) *Control.* A relationship between persons that includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, a holding or investment company, or any other means.

(g) *Category 1 transfers.* Transactions in which the person to whom the operating rights would be transferred is not an ICC carrier and is not affiliated with any ICC carrier.

(h) *Category 2 transfers.* Transactions in which the person to whom the operating rights would be transferred is an ICC carrier and/or is affiliated with an ICC carrier.

§ 1181.2 Applications.

(a) *Procedural requirements.* (1) At least 10 days before consummation, an original and two copies of a properly completed Form OP-FC-1 and any attachments (*see* paragraph (b)(1)(viii) of this section) must be filed with the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423. The original must show that an additional copy has been furnished to the Commission's Regional Director for the Region(s) in which the applicants' headquarters are located. The nonrefundable filing fee prescribed by 49 CFR 1002.2(f)(25) must accompany the application.

(2) At any time after the expiration of the 10-day waiting period, applicants may consummate the transaction, subject to the subsequent approval of the application by the Commission, as described below. The transferee may commence operations under the rights acquired from the transferor upon its compliance with the Commission's regulations governing insurance, tariffs (if applicable), and process agents. *See* 49 CFR Parts 1043, 1312 and 1044, respectively. In addition, contract carriers must comply with the Commission's regulations concerning contracts at 49 CFR Part 1053. In the alternative, applicants may wait until the Commission has issued a decision on their application before transferring the operating rights. If the transferee wants the transferor's operating authority to be reissued in its name, it should furnish the Commission with a statement executed by both transferor and transferee indicating that the transaction has been consummated. Authority will not be reissued until after the Commission has approved the transaction.

(b) *Information required.* (1) In category 1 and category 2 transfers, applicants must furnish the following information:

(i) Full name, address, and signatures of the transferee and transferor.

(ii) A copy of that portion of the transferor's operating authority involved in the transfer proceeding.

(iii) A short summary of the essential terms of the transaction.

(iv) If relevant, the status of proceedings for the transfer of State certificate(s) corresponding to the Certificates of Registration being transferred.

(v) A statement as to whether the transfer will or will not significantly affect the quality of the human environment.

(vi) Certification by transferor and transferee of their current respective safety ratings by the United States Department of Transportation (*i.e.*, satisfactory, conditional, unsatisfactory, or unrated).

(vii) Certification by the transferee that it has sufficient insurance coverage under 49 U.S.C. 10927 for the service it intends to provide.

(viii) Information to demonstrate that the proposed transaction is consistent with the national transportation policy

[1] The execution of a chattel mortgage, deed of trust, or other similar document does not constitute a transfer or require the Commission's approval. However, a foreclosure for the purpose of transferring an operating right to satisfy a judgment or claim against the record holder may not be effected without approval of the Commission.

and satisfies the criteria for approval set forth at § 1181.4 of this part. (Such information may be appended to the application form and, if provided, would be embraced by the oath and verification contained on that form.)

(2) Category 2 applicants must also submit the following additional information:

(i) Name(s) of the carrier(s), if any, with which the transferee is affiliated.

(ii) Aggregate revenues of the transferor, transferee, and their carrier affiliates from interstate transportation sources for a 1-year period ending not earlier than 6 months before the date of the agreement of the parties concerning the transaction. If revenues exceed $2 million, the transfer may be subject to 49 U.S.C. 11343 rather than these rules.

§ 1181.3 Notice.

The Commission will give notice of approved transfer applications through publication in the *ICC Register*.

§ 1181.4 Commission action and criteria for approval.

A transfer will be approved under this section if:

(a) The transaction is not subject to 49 U.S.C. 11343; and

(b) The transaction is consistent with the public interest; however,

(c) If the transferor or transferee has less than a satisfactory safety rating, the transfer may be conditioned or may be disapproved. If an application is conditioned or denied, the Commission will serve a decision on the parties setting forth the basis for its action. If parties with less than satisfactory safety ratings consummate a transaction pursuant to the 10-day rule at section 1181.2 of this part prior to our decision, they do so at their own risk and subject to any conditions we subsequently may impose. Transactions that have been consummated but are later denied by the Commission are null and void and must be rescinded. Similarly, if applications contain false or misleading information, they are void *ab initio*.

§ 1181.5 Responsive pleadings.

(a) Protests must be filed within 20 days after the date of publication of an approved transfer application in the *ICC Register*. Protests received prior to the notice will be rejected. Applicants may respond within 20 days after the due date of protests. Petitions for reconsideration of decisions denying applications must be filed within 20 days after the date of service of such decisions.

(b) Protests and petitions for reconsideration must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and be served on appropriate parties.

§ 1181.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

(a) *Scope*. These procedures (and not the transfer rules at 49 CFR Parts 1181, 1182, 1183 and 1186) apply in the following circumstances:

(1) A change in the form of a business, such as the incorporation of a partnership or sole proprietorship;

(2) A change in the legal name of a partnership or change in the trade name or assumed name of any entity;

(3) A transfer of operating rights from a deceased or incapacitated spouse to the other spouse;

(4) A reincorporation and merger for the purpose of effecting a name change;

(5) An amalgamation or consolidation of a carrier and a noncarrier into a new carrier having a different name from either of the predecessor entities; and

(6) A change in the State of incorporation accomplished by dissolving the corporation in one State and reincorporating in another State.

(b) *Procedures*. To accomplish these changes, a letter must be sent to the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423. The envelope should be marked "NAME CHANGE". The applicant must provide:

(1) The docket number(s) and name of the carrier requesting the change;

(2) A copy of the articles of incorporation and the State certificate reflecting the incorporation;

(3) The name(s) of the owner(s) of the stock and the distribution of the shares;

(4) The names of the officers and directors of the corporation; and

(5) A statement that there is no change in the ownership, management, or control of the business. When this procedure is being used to transfer operating rights from a deceased or incapacitated spouse to the other spouse, documentation that the other spouse has the legal right to effect such change must be included with the request. The fee for filing a name change request is in 49 CFR 1002.2(f)(11).

PART 1186—EXEMPTION OF CERTAIN TRANSACTIONS UNDER 49 U.S.C. 11343

6. The authority citation for Part 1186 continues to read:

Authority: 49 U.S.C. 10321 and 11343(e) and 5 U.S.C. 553

7. Section 1186.1 is revised to read:

§ 1186.1 Scope of exemptions.

Any transaction under 49 U.S.C. 11343(a)(1)–(5) among motor carriers of property or between them and noncarriers is exempt from the requirements of 49 U.S.C. 11343, 11344, and 11345a, subject to the right of employees and others to file complaints as set forth in § 1186.8.

8. Section 1186.2 is revised to read:

§ 1186.2 Notice of exemption.

To qualify for an exemption under § 1186.1, the participants in the transaction must file an original and four copies of a joint Notice of Exemption with the Commission. The Notice of Exemption shall contain the following information:

(a) Names and addresses of the carriers or other parties involved;

(b) A brief, but specific description of the nature of the transaction;

(c) Certification of the accuracy of the contents of the notice by, and signature of, the persons who control the carriers or other parties involved in the transaction; and

(d) A jurisdictional statement stating why the transaction is subject to 49 U.S.C. 11343–11344.

9. Section 1186.5 is revised to read:

§ 1186.5 Filing fees.

The filing fee required to file a Notice of Exemption is set forth in 49 CFR 1002.2(f)(27).

10. Section 1186.8 is revised to read:

§ 1186.8 Complaints.

(a) *Employee complaints*. Employees who have been or may be adversely affected by an exempt transaction or transaction proposed for exemption may file a complaint with the Commission any time after the Notice of Exemption is filed. A copy of the complaint must be served on the parties to the transaction. The parties may file an answer with the Commission and upon complaint within 10 days after receipt of the complaint. Employee complaints must contain the following information:

(1) The docket number of the corresponding Notice of Exemption (if available at the time) and the names of the participants in the transaction;

(2) Names of the employees alleged to be affected by the transaction and the nature and scope of harm;

(3) A request for specific relief (requests for relief in the alternative are acceptable);

(4) An explanation as to why the particular relief sought is the appropriate remedy for the particular harm suffered; and

(5) (Optional) A request for suspension or revocation of the exemption, accompanied by information showing why suspension or revocation of exemption is necessary.

(b) *Anticompetitive complaints.* Any party may file a complaint with the Commission within 30 days after the Notice of Exemption is published alleging that the transaction is potentially anticompetitive. A copy of the complaint must be served on the parties to the transaction. The parties may respond by filing an answer with the Commission and upon complainant within 10 days after the due date of the complaint. The complaint must contain the following information:

(1) The docket number of the corresponding Notice of Exemption (if available at the time) and the names of the participants in the transaction;

(2) A specific description of the manner in which competition will allegedly be adversely affected;

(3) A request for specific relief (requests for relief in the alternative are acceptable); and

(4) An explanation as to why the particular relief sought is deemed to be appropriate.

(c) Petitioners shall promptly furnish any interested party with a copy of the Notice of Exemption and any attachments, free of charge.

(11). A new § 1186.9 is added, as follows:

§ 1186.9 Safety fitness.

The Commission will consider the DOT safety rating of the parties in transactions where operating authority is purchased or merged. All parties to the transaction must certify their current safety ratings in their Notice of Exemption. If either party has less than a satisfactory safety fitness rating, the exemption may be either conditioned on improvement in that rating, or disapproved. If parties with less than satisfactory ratings consummate a transaction 60 days after publication of the Notice of Exemption but prior to our decision, they do so at their own risk and subject to any conditions we subsequently may impose. If a Notice of Exemption contains false or misleading information, the exemption is void *ab initio.*

Note.—The appendix will not be codified in the Code of Federal Regulations.

Appendix

Form OP-FC-1 is to be filed in all proceedings to transfer authority under: 49 U.S.C. 10321 and 10924 involving property brokers, 49 U.S.C. 10926 involving motor carriers, water carriers, and household goods freight forwarders, and 49 U.S.C. 10931 and 10932 involving holders of Certificates of Registration. This form should not be used for transfers of motor carrier authority or water carrier authority under 49 U.S.C. 11343. A sample of the revised Form OP-FC-1 follows.

OP-FC-1

Interstate Commerce Commission

Small Carrier Transfer Application Form

No. MC-FC-

Through the filing of this original application, two copies, and a $150 filing fee (check or money order) with the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423, the applicants named below request approval to transfer authority under 49 U.S.C. 10321, 10924, 10926, 10931, and/or 10932.

Exhibit I. Identification of Applicants

_____
Name of Transferee

_____
Business Form: Corporation, Partnership, Individual

_____
Trade Name

_____
Business Address and Zip Code

Declarations: 1. Transferee [ ] is [ ] is not an ICC-regulated motor carrier.

2. Transferee [ ] is [ ] is not a [ ] rail carrier, [ ] water carrier, [ ] express company, [ ] household goods freight forwarder, or [ ] broker regulated by the ICC.

3. Transferee [ ] is [ ] is not affiliated with a [ ] motor, [ ] rail, or [ ] water carrier, [ ] freight forwarder, [ ] express company, or [ ] broker.

4. The name(s) of the motor, rail, or water carrier, freight forwarder, express company, or broker which transferee owns or is affiliated with:

_____
_____
_____
Name of Transferor

_____
Business Form: Corporation, Partnership, Individual

_____
Trade Name

_____
Business Address and Zip Code

Exhibit II. Identification of ICC Rights Being Transferred

We seek to [ ] transfer [ ] lease [ ] a portion of [ ] the entire ICC operating rights under:

Certificate No. _____
Permit No. _____
Certificate of Registration No. MC- _____
License No. MC- _____

WE have attached true copies of the Transferor's ICC certificates, licenses, and/or permits involved in this application and have marked the portions to be transferred, retained, or canceled.

Note.—In instances where only portions of a particular certificate, license, or permit are to be transferred, a copy of the authority in its entirety must be submitted.

Exhibit III. Terms of the Transaction

Briefly describe the essential terms of the transaction.

_____
_____

Exhibit IV. Certificate of Registration Transfer

Our application [ ] does [ ] does not involve the transfer of a Certificate of Registration. If it does, we have attached a copy of the State order approving the transfer of the corresponding State rights or will furnish it when it is available.

Exhibit V. Certifications

A. We certify that on _____, 19__, we mailed a complete copy of this application to the ICC Regional Office(s) located at (City and State).

B. We certify that this transaction [ ] will [ ] will not significantly affect the quality of the human environment.

C. Transferee certifies that its current safety rating by the United States Department of Transportation (DOT) is [ ] satisfactory, [ ] conditional, [ ] unsatisfactory, [ ] unrated. Transferor certifies that its current DOT safety rating is [ ] satisfactory, [ ] conditional, [ ] unsatisfactory, [ ] unrated.

D. Transferee certifies that it has sufficient insurance coverge under 49 U.S.C. 10927 for the service it intends to provide.

E. We understand that knowing and willful omissions of material facts constitute Federal criminal violations punishable by up to 5 years imprisonment and fines up to $10,000 for each offense. (18 U.S.C. 1001).

_____
Signature of Transferee

_____
Signature of Transferor

Exhibit VI. Applicants' Representative

Name and Business Telephone Number

Name and Business Telephone Number

Capacity

Business Address and Zip Code

If Transferee is an ICC Carrier and/or is Affiliated With an ICC Carrier, Complete the Following Part.

Exhibit VII. Supplement

Since Transferee is an ICC carrier and/or is affiliated with an ICC carrier, we have submitted the following supplemental information:

A. Name(s) of ICC carrier affiliate(s) of transferee and a statement describing the extent of this affiliation.

B. Aggregate revenues of the transferor, transferee and their carrier affiliates from interstate transportation sources for a 1-year period ending not earlier than 6 months before the date of the agreement of the parties covering the transaction. *See* 49 U.S.C. 11343(d)(1).

[FR Doc. 88-3278 Filed 2-17-88; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 53, No. 32
Thursday, February 18, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 761

Operational Procedures for Share Draft Programs; Federally-Insured State-Chartered Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; removal of part.

SUMMARY: The NCUA Board proposes to repeal Part 761 of its Rules and Regulations. Part 761 establishes principles for determining whether Federal or state law governs federally-insured state-chartered credit unions operating share draft programs under section 205(f) of the Federal Credit Union Act. It was an attempt, to the extent applicable state law did not conflict, to put federally-insured state-chartered credit unions under the same regulatory guidelines as Federal credit unions. As the NCUA has completely removed Federal credit union share draft guidelines, Part 761 no longer appears necessary.

DATE: Comments must be received on or before May 18, 1988.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, 1771 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie Ulan, Staff Attorney Office of General Counsel, at the above address, or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: Congress added section 205(f) to the Federal Credit Union Act (12 U.S.C. 1785(f)) in 1980 to authorize federally-insured credit unions (both federally-chartered and federally-insured state-chartered) to maintain share draft accounts. Section 205(f) states:

> Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board * * *. [With certain exceptions,] an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or tansferable instruments or other orders for the purpose of making transfers to third parties.

In November, 1980, the NCUA Board amended § 701.35 of the NCUA Rules and Regulations [45 FR 75169, November 14, 1980] to set forth numerous requirements for share draft accounts for Federal credit unions (FCU's"), including that each FCU board of directors provide for truncation, surety bond coverage, and written operational and program specifications.

Part 761 (which was promulgated together with the amendment of § 701.35) made those requirements applicable to federally-insured state-chartered credit unions ("FISCU's") to the extent doing so did not conflict with applicable state laws: "In the absence of state law authorizing share draft accounts, § 701.35 of ths chapter is applicable, to the extent it involves share draft accounts, except to the extent that any requirement set forth in § 701.35 conflicts with state law."

Section 701.35 has been modified several times since November, 1980. All of the requirements that appeared in the November, 1980, regulation that specifically addressed share draft accounts have been deleted from the regulation. Since § 701.35 no longer imposes specific requirements on share draft accounts, the NCUA Board believes that Part 761 s no longer needed.

The NCUA Board therefore proposes to delete Part 761 from its Regulations. FISCU's, as well as FCU's, are authorized to offer share draft accounts by section 205(f) of the FCU Act. No additional NCUA regulatory requirements are imposed. FISCU's may also be permitted to offer share draft accounts pursuant to state law. It has been NCUA's longstanding position that FISCU's offering share draft accounts pursuant to state law or section 205(f) of the FCU Act are subject to all other state regulatory requirements applicable to those accounts. The NCUA Board maintains this position in its proposed deletion of Part 761.

The NCUA Board requests comments on whether or not Part 761 should be deleted. FISCU's in particular, are invited to comment on whether NCUA regulation is necessary in connection with section 205(f). If commenters believe that the regulation should be retained, comment is requested on what changes, if any, should be made to the regulation.

By the National Credit Union Administration Board on February 10, 1988.

Becky Baker,
Secretary, NCUA Board.

[FR Doc. 88-3405 Filed 2-17-88; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 87N-0363]

Irradiation in the Production, Processing, and Handling of Food; Labeling

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulations on the labeling of retail packages of irradiated food to extend for an additional 2 years the expiration date of the current wording requirement. This extension of the wording requirement will provide time to inform consumers about the meaning of the logo representing radiation. The proposed amendment will continue until April 18, 1990, the requirement that, in addition to the irradiation logo, the words "Treated with radiation" or Treated by irradiation" be placed prominently on labels, labeling, or other appropriate devices for all foods that have been irradiated.

DATE: Written comments by March 21, 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: Clyde Takeguchi, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 18, 1986 (51 FR 13376), FDA issued a final rule to amend the regulations on the use of irradiation

in the production, processing, and handling of food to, among other things, modify the requirements for labeling such foods. These regulations now require that the label and labeling of retail packages of foods that have been irradiated bear the appropriate internationally used logo, along with the words "Treated with radiation" or "Treated by irradiation" (21 CFR 179.26(c)(1)). For foods not in package form, the required logo and phrase are to be displayed with either the labeling of the bulk container or on a counter sign, card, or other appropriate device (21 CFR 179.26(c)(2)). The wording requirement expires on April 18, 1988, unless specifically extended by notice and comment rulemaking.

The required logo was developed in the Netherlands several years ago to identify a food that has been irradiated. In the final rule, FDA stated that this logo could provide identifying information in neutral form but acknowledged that its significance would not be recognized by most Americans until they had been fully informed about its meaning. Therefore, in its April 1986 rule, the agency required that both the specified wording and the logo be displayed on the label of retail foods.

The labeling requirement for irradiated foods, as the agency emphasized in the preamble to the final rule, "is not based on any concern about the safety of the uses of radiation that are allowed under this final rule" (51 FR 13376 at 13388; April 18, 1986). Rather, it was based on a decision by the agency, supported by numerous comments, to require labeling to avoid any confusion that may occur as to whether a product has been irradiated. Most food processing if ordinarily evident through labeling or direct observation. For example, canning and freezing are well-established processes that are readily apparent and therefore not generally declared on the label. Pasteurized milk, on the other hand, it not obviously pasteurized, but this fact is declared on the label. Similarly, there is no visual evidence that a food product has been irradiated; therefore, in the absence of any label information, "the implied representation to consumers is that the food has not been processed" (51 FR 13388; April 18, 1986). For these reasons, the agency concluded that consumers should be informed by means of a label statement and logo that the food has been irradiated.

Because it seemed likely that the meaning of the logo would be recognized after 2 years, FDA provided in the final rule that the wording requirement would expire on April 18, 1988. The agency stated, however, that it would assess the need for mandatory language to accompany the logo during this 2-year period.

For a number of reasons, very few consumers will have seen irradiated food with the required wording before this wording requirement expires. First, the small amounts of food irradiated in this country are primarily spices and seasonings used as ingredients in processed foods. The retail labels of such foods need not state that an ingredient was irradiated. Second, a major reason for irradiating fruits and vegetables is to prevent insects from being transported into areas where they are not endemic. The U.S. Department of Agriculture (USDA) establishes quarantine requirements for importing fresh fruits and vegetables. To date, however, irradiation has not been accepted as a quarantine treatment method for any food. USDA has proposed to permit irradiation as a quarantine treatment method for papaya from Hawaii transported to the rest of the United States or its territories (52 FR 292; January 5, 1987), but this rule is not yet final. Thus, the growth of commercial food irradiation has been slow.

Because most consumers have had no opportunity to associate the required information logo with irradiation treatment, FDA is proposing to amend § 179.26(c)(4) (21 CFR 179.26(c)(4)) by changing the expiration date from April 18, 1988, to April 18, 1990.

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects of specifying the label and labeling requirements for retail packages of irradiated food on small entities, including small businesses. The agency had determined that these labeling requirements would not result in a significant impact. Because this proposal merely extends the expiration date for these labeling requirements for an additional 2 years, the agency has determined, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant impact on a substantial number of small entities would derive from this action. Further, in accordance with Executive Order 12291, the agency has determined that this rule will not be a major rule as defined by the Order.

Because of the short time before the current expiration date of April 18, 1988, FDA is allowing 30 days for comment rather than the customary 60 days.

Interested persons may, on or before March 21, 1988, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food ingredients, Food packaging, Radiation protection. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 179 be amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR Part 179 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10; §§ 179.25 and 179.26 also are issued under secs. 402, 403, 703, 704, 52 Stat. 1046-1048 as amended, 1057, 67 Stat. 477 as amended (21 U.S.C. 342, 343, 373, 374); 21 CFR 5.10, 5.11.

§ 179.26 [Amended]

2. Section 179.26 *Ionizing radiation for the treatment of food* is amended by changing the "April 18, 1988" expiration date in paragraph (c)(4) to "April 18, 1990."

Dated: December 24, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88-3455 Filed 2-17-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[INTL-55-86]

Definition of Resident Alien; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the definition of resident alien. Changes to the applicable tax law were made by the Tax Reform Act of 1984.

DATES: The public hearing will be held on Wednesday, June 15, 1988, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, June 1, 1988.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (INTL-55-86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Marcia Evans of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 871, 904, 953, 1301, 1441 and 6013, the Employment Tax Regulations (26 CFR Part 31) under sections 3121 and 3306 and the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701 (b) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, September 10, 1987, (FR 52 3430).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than June 1, 1988, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after ouitlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Acting Chief, Technical Section, Legislation and Regulations Division.

[FR Doc. 88-3418 Filed 2-17-88; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Inventions by VA Employees as Coinventors in Research Supported by Nonprofit Organizations and Small Businesses

AGENCY: Veterans Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: A document published by the Veterans Administration (VA) in the **Federal Register** on April 12, 1985, 50 FR 14393, proposed regulations setting forth policy, procedure, and guidelines with respect to patent rights effected through funding agreements for research with nonprofit organizations and small businesses under 35 U.S.C. 202(e). This document withdraws the proposed regulations. The subject matter covered by the VA proposal was covered in more extensive regulations subsequently published by the Department of Commerce at 52 FR 8552. The Department of Commerce's regulations implemented 35 U.S.C. 202-204 and apply governmentwide. Therefore, there is no need to establish separate VA regulations. The authority for the regulations promulgated is 35 U.S.C. 202(e); 37 CFR Part 401.

FOR FURTHER INFORMATION CONTACT: Diana M. Bloss, Deputy Assistant General Counsel, Office of the General Counsel, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-5061.

Approved: January 7, 1988.

Thomas K. Turnage,

Administrator.

[FR Doc. 88-3460 Filed 2-17-88; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-3329-8; EPA Docket No. 107PA-32]

Section 107; Attainment Status Classification

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from the Commonwealth of Pennsylvania and the Philadelphia Air Management Services (AMS) to reclassify the entire City of Philadelphia to attainment for total suspended particulate matter (TSP).

The EPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}).The EPA will, however, continue to process reclassifications of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (p. 24682, column 1) describes EPA's transition policy regarding TSP reclassifications.

DATE: Comments must be submitted on or before March 21, 1988.

ADDRESSES: Copies of the proposed reclassification request and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Eighth Floor, 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 Triplett.

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3Am11) at the EPA,

Region III address above or call (215) 597-9134.

All comments on the proposed reclassification submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. Joseph W. Kunz, Chief, PA/WV Section at the EPA, Region III address above, EPA Docket No. 107PA-32.

SUPPLEMENTARY INFORMATION: The Pennsylvania Department of Environmental Resources (DER) has submitted a request from the Philadelphia Air Management Services (AMS) to the U.S. Environmental Protection Agency (EPA), on October 2, 1986, to reclassify the entire City of Philadelphia to attainment for total suspended particulate matter (TSP) as follows:

Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, and 329-332 from "Does not meet secondary standards" to "Better than national standards."

Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, and 327 from "Cannot be classified" to "Better than national standards."

Background

When TSP attainment classifications were initially submitted for Philadelphia in December 1977, per section 107 of the amended Clean Air Act (Act), 182 of the City's 365 census tracts were listed as "attainment," 97 were listed as "secondary NAAQS non-attainment," and 86 were listed as "unclassifiable." The latter classification was based on a lack of reliable or representative TSP data within the "unclassifiable" areas.

During 1978 and 1979, an expanded TSP monitoring network was established in conformance with proposed NAMS/SLAMS (National Air Monitoring System/State and Local Air Monitoring System) siting criteria, to provide data adequate for NAAQS attainment determinations. A request was also submitted to and approved by EPA for an 18 month extension to the January 1979 State Implementation Plan (SIP) revision deadline for submission of an attainment plan for meeting the secondary NAAQS for TSP. The extension was requested to allow consideration of additional monitoring data and studies to determine the type, scope and applicability of additional controls for particulate matter.

Additional data was collected from the monitoring sites around the city and the Air Quality Monitoring over at least the last eight quarters (1984 and 1985) shows attainment of all TSP standards. In addition to this prerequisite for reclassification, this proposed reclassification fulfills all the requirements set forth in a section 107 designation policy memorandum dated April 21, 1983, from Shedon Meyers, Director, Office of Air Quality Planning and Standards, EPA, and a TSP redesignation policy memorandum dated September 30, 1985, from Gerald A. Emison, Director, Office of Air Quality Planning and Standards, EPA. The air quality data has been quality assured and is representative of the area. Also, the improvement in air quality has been demonstrated to be due to quantifiable and enforceable emission reductions associated with permanent shutdowns of the following major sources; Amstar Corporation, Philadelphia Coke, National Sugar, Celotex and Farmers Expert. These shutdowns reduced actual TSP emissions in the City by 1,323 tons/year and allowable TSP emissions by 2,211 tons/year. These source shutdowns have the same weight as a SIP control strategy. Even though these changes, which have created the improvement in air quality, have not been formally approved as a SIP revision, they have the practical impact of an EPA approved strategy and are being used as the basis for approval. As part of this control demonstration, Philadelphia has provided documentation that if these sources were to start up, they would be treated as new sources under Pennsylvania's and Philadelphia's new source review permitting requirements. Additionally, the improvement in air quality is not due to excess credit being taken by dispersion techniques in the area. The City's demonstration is discussed in detail in the technical support document accompanying this rulemaking action. Based on the above information, EPA is today proposing to approve the Commonwealth's request to reclassify the entire City of Philadelphia to attainment for TSP.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

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

Date: March 13, 1987.

James M. Seif,

Regional Administrator.

Editorial Note.—This document was received at the Office of the Federal Register February 12, 1988.

[FR Doc. 88-3431 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 147

[FRL-3327-5]

Nevada Department of Conservation and Natural Resources; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (the State) requesting primacy enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period and public hearing will provide EPA with the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the State to regulate injection wells in the State of Nevada.

DATES: The public comment period closes on March 21, 1988. The Public Hearing will be held on March 15, 1988 from 5:30 p.m. to 8:30 p.m. Requests to present oral testimony should be filed by March 4, 1988. For additional information on requests for a public hearing see **SUPPLEMENTARY INFORMATION.** If sufficient public interest in holding the hearing is not expressed by March 4, 1988, EPA intends to forgo the hearing.

If the hearing is cancelled, those persons having expressed interest in attending the hearing will be notified of the cancellation either by phone or letter. Others should contact ERA in San Francisco at (415) 974-0782 to confirm the date and time.

ADDRESSES: Comments and/or requests to testify at the hearing should be mailed to Judy Drexler, W-6-2, Environmental Protection Agency, 215

Fremont Street, San Francisco, California, 94105. Copies of the application and pertinent material are available during normal business hours at the following locations:

Environmental Protection Agency, Region IX (Library), 6th Floor, 215 Fremont Street, San Francisco, California, 94105

Environmental Protection Agency, Underground Injection Control Section, W-6-2, 215 Fremont Street, San Francisco, California, 94105

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 S. Fall Street, Carson City, Nevada, 79810

The hearing will be held at the Ormsby Public Library, 900 North Roop Street, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Judy Drexler, W-6-2, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California, 94105, Phone: (415) 974-0782 or (FTS) 454-0782.

SUPPLEMENTARY INFORMATION: Requests for a public hearing should include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the UIC program and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

The application from the State is for the regulation of all classes of injection wells in the State, except for those on Indian lands, which are regulated by EPA. The application includes a description of the State Underground Injection Control program, copies of all applicable statutes and rules, a statement of legal authority, and a proposed Memorandum of Agreement between the State of Nevada and the Region IX Office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control Program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

Dated: February 4, 1988.

Harry Seraydarian,

Acting Regional Administrator.

[FR Doc. 88-3045 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300169; FRL-3330-2]

Revocation of Tolerances for Certain Chemicals; Mercaptobenzothiazole, etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke tolerances and exemptions from the requirement of a tolerance established for residues of eight pesticide chemicals in or on certain raw agricultural commodities (RACs). EPA is initiating this action for those pesticides which have no food use registrations. These pesticides either were never registered for these food uses or the applicable registrations have been cancelled.

DATE: Written comments, identified by the document control number [OPP-300169], must be received on or before April 18, 1988.

ADDRESSES: By mail, submit comments to:

Information Service Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, deliver comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Rosalind L. Gross, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-7700.

SUPPLEMENTARY INFORMATION: In January 1981, EPA initiated a Data Call-In (DCI) Program, notice of which was published in the **Federal Register** of October 7, 1980 (45 FR 66736), to require those pesticide registrants with active registrations for food uses to provide the Agency with needed studies under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Such studies, including chronic toxicology, product chemistry, residue, and environmental fate data, are an integral part of the data base used to reassess each chemical during the reregistration process. The purpose of a DCI is to assure that these data are available or under development before the pesticide chemical is reassessed for reregistration under FIFRA section 3(g).

In conjunction with the DCI Program and a review of Agency registration files, the Agency has determined that tolerances/exemptions from tolerance exist for eight pesticide chemicals that have no current food use registrations. These eight chemicals are as follows: mercaptobenzothiazole, 4-(methylsulfonyl)-2,6-dinitro-*N,N*-dipropylaniline, trichlorobenzyl chloride, terbuthylazine (2-*tert*-butylamino-4-chloro-6-ethylamino-*S*-triazine), copper abietate, copper silicate, tetracopper calcium oxychloride, and piperonyl cyclonene. Registrations for food uses of these eight pesticide chemicals either were never issued after the related tolerances/exemptions from tolerance were established or, for various reasons, were cancelled after registration. Registration of a food or feed use pesticide subsequent to the establishment of a tolerance/exemption from a tolerance may not occur for a variety of reasons, such as a lack of a prospective registrant or a loss of interest on the part of the prospective registrant. Similarly, voluntary cancellations may occur when a registrant no longer has an interest in marketing the pesticide in the United States.

At the present time, three of the eight chemicals in question have been subjected to a DCI, namely: 4-(methylsulfonyl)-2,6-dinitro-*N,N*-dipropylaniline, trichlorobenzyl chloride, and terbuthylazine (2-*tert*-butylamino-4-chloro-6-ethylamino-*S*-triazine.) In response to the DCI, the registrants of products containing either 4-(methylsulfonyl)-2,6-dinitro-*N,N*-dipropylaniline or trichlorobenzyl chloride cancelled their product registrations. Terbuthylazine was registered by only one company; those products were not for a food use and thus did not require a tolerance.

The remaining five chemicals, which are mercaptobenzothiazole, copper abietate, copper silicate, tetracopper calcium oxychloride, and piperonyl cyclonene, have not been subjected to a DCI. There are no registrants for the food uses of these five chemicals to whom DCI notices could be directed. Therefore, the specific data gaps usually identified at the beginning of the DCI process have not been identified for these chemicals.

Upon receipt of a request to maintain the tolerances/exemption from a tolerance for any of these eight chemicals, the Agency will identify the specific data requirements for each such chemical necessary to maintain the tolerance/exemption from a tolerance. The Agency will require the proponent of a tolerance/exemption from tolerance continuation to submit data to support the tolerance/exemption from tolerance. This is consistent with Agency practice concerning support of tolerances/exemption from tolerance for domestically registered pesticides. Any person who wishes to retain the tolerance/exemption from tolerance for one or more of these eight chemicals must commit to provide the data identified by the Agency as necessary to support its continuation within a timeframe set by the Agency, and to furnish progress reports. Failure to commit to data production, including failure to to take any required interim steps, or to submit satisfactory data within the designated timeframe, will result in the revocation of the tolerance or the exemption from tolerance.

EPA issued a "Policy Statement or Revocation of Tolerances for Cancelled Pesticides," published in the **Federal Register** of September 29, 1982 (47 FR 42956). This statement, with which the Food and Drug Administration, the Food Safety and Inspection Service of the U.S. Department of Agriculture (USDA), and the Agricultural Marketing Service of USDA agreed, discusses the revocation of formal tolerances for residues of cancelled pesticides and the consequent need to determine whether replacement action levels should be set for these pesticides at the time the tolerances are revoked. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from prior legal usage of the pesticides. Crops grown in previously treated fields may contain detectable residues of persistent pesticides for years after the application of the cancelled pesticide has ceased. For pesticides which degrade rapidly in the environment, however, revoking a tolerance would not necessitate setting a replacement action level because residues from past use would not be expected to be present in food commodities at detectable levels.

Based on the fact that there are no current food use registrations for any of these eight pesticide chemicals, EPA proposes to revoke the tolerance/exemptions from tolerance for these pesticide chemcials. A tolerance/exemption from a tolerance is generally not necessary for a pesticide chemical which is not registered for a particular food use. The Agency is not recommending the establishment of action levels in place of these tolerances/exemptions from tolerance. Since there are no food use registrations of these products, and hence no legal use in the United States, and since these pesticides are either not persistent, or sufficient time has elapsed since the prior use for residues to dissipate, residues should not appear in any domestically produced commodities. Based on available monitoring date for import commodities involving residues of these chemicals, the Agency also does not expect residues to be present in imported commodities. However, EPA is soliciting comments on whether there is a need to modify the proposal to address residues in imported commodities.

The tolerances/exemptions from tolerance, listed in 40 CFR Part 180, being proposed for revocation are as follows:

Section 180.160—Mercaptobenzothiazole.

Section 180.237—4-(Methylsulfonyl)-2,6-dinitro-*N,N*,-dipropylaniline.

Section 180.273—Trichlorobenzyl chloride.

Section 180.333—Terbuthylazine (2-*tert*-butylamino-4-chloro-ethylamino-*S*-triazine).

Section 180.1001(b)(1)—Copper compounds: copper abietate, copper silicate, tetracopper calcium oxychloride.

Section 180.001(b)(5)—Piperonyl cyclonene.

Simultaneously, with this proposal EPA is informing the member countries of the Codex Alimentarius Commission and other countries of its proposed revocation action so that those might be affected are afforded the opportunity to comment on the proposed action and to submit information on potential trade problems that could result from the revocation action.

Any persons who has registered or who has submitted an application under FIFRA, as amended, for the registration of a pesticide which contains any of these eight chemicals may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an adivsory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposal to revoke tolerances/exemptions from tolerance for residues of the eight chemicals discussed. Comments must bear a notation indicating the document control number [OPP-300169]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

Currently, there is no legal usage in the United States of any of these chemicals for food uses. This eliminates

the possibility of direct domestic impacts. Residues from past usage are not likely to be present, due to the lack of recent usage for most of the chemicals and their lack of persistence.

For these eight chemicals, based on available data, there is no relevant foreign usage. This would indicate that no impacts are likely from the proposed tolerance/exemption from tolerance revocation for these chemicals. Thus, for these eight chemicals, there should be no impact from revoking the tolerances/exemptions from tolerance.

The proposed regulatory action has been reviewed by the Office of Management and Budget as required by E.O. 12291.

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this proposed regulatory action is intended to prevent the sale of commodities containing residues of any of these pesticides primarily where the subject pesticides have been used in an unregistered or illegal manner, it is expected that little or no economic impact would occur at any level of business enterprises.

Accordingly, I certify that this proposed regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 1, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

§ 180.160 [Removed]

2. Section 180.160 is removed.

§ 180.237 [Removed]

3. Section 180.237 is removed.

§ 180.273 [Removed]

4. Section 180.273 is removed.

§ 180.333 [Removed]

5. Section 180.333 is removed.

§ 180.1001 [Amended]

6. In § 180.1001, by amending paragraph (b)(1) by removing the entries for copper abietate, copper silicate, and tetracopper calcium oxychloride from the list therein and by removing paragraph (b)(5).

[FR Doc. 88-3432 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 22

[General Docket 87-390]

Technology and Auxiliary Service Offerings in the Domestic Public Cellular Radio Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extending time for filing replies.

SUMMARY: This action extends the time for filing replies in response to the Notice of Proposed Rule Making, Notice, in this proceeding. Telocator Network of America requested an extension of time in order to complete a complex engineering analysis of the issues raised in the comments to the Notice. In order to develop as complete a record as possible in this proceeding, the Commission is extending the time for filing replies.

DATES: Reply comments are due March 18, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph P. Husnay, Office of Engineering and Technology, (202) 653-8114.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rule Making was published in General Docket 87-390, FCC 87-301, adopted September 17, 1987, and released October 15, 1987. See 52 FR 39250, October 21, 1987. See also, the previous Order Granting Extension of Time, 3 FCC Rcd 21.

In the matter of amendment of Parts 2 and 22 of the the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in the Domestic Public Cellular Radio Telecommunications Service.

Order Granting Extension of Time

Adopted: February 10, 1988.

Released: February 11, 1988.

By the Office of Engineering and Technology.

1. The Commission has before it a request to extend the reply period established in the previous Order Granting Extension of Time (Order) in this proceeding. The Order, released December 16, 1987, extended the deadline for filing comments to January 15, 1988, and the deadline for filing replies to February 15, 1988. Telocator Network of America (TELOCATOR) requests an extension of the reply period to March 18, 1988.

2. Telocator has asked its engineering firm to thoroughly analyze the technical aspects of the comments filed in the proceeding. Due to the complexity of the technical issues that have been raised, the analysis cannot be completed by February 15. Hence, in order to provide the Commission with a more complete record, Telocator requests additional time for filing replies.

3. The Commission concurs with Telocator that an engineering analysis of the comments would be of substantial benefit in considering the technical issues in this proceeding. In order to obtain as complete a record as possible, it is ordered that the time permitted to file replies is extended to March 18, 1988.

4. This action is taken pursuant to authority found in section 4(i), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, and 303, and pursuant to §§ 0.31 and 0.241 of the Commission's Rules.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 88-3347 Filed 2-17-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-201; Advance Notice and Docket No. HM-201B; Notice No. 87-11]

Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws, and Other Defects of Tank Car Tanks; and Shippers; Use of Tank Car Tanks With Localized Thin Spots

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of time to file comments.

SUMMARY: On December 8, 1987, RSPA published an advance notice of proposed rulemaking (Docket No. HM-

201; Advance notice; 52 FR 46510) concerning detection of tank car defects and a notice of proposed rulemaking (Docket No. HM-201B; Notice No. 87-11; 52 FR 46511) concerning use of tank cars which have localized thin spots due to repairs. RSPA has received petitions requesting that an extension of the time for filing comments on the above-cited notices be extended. Additional time is requested by the petitioners in order for them to adequately address the technical reports which were referenced in both notices. RSPA believes that an extension is consistent with the public interest and, by this notice, is extending the comment period for both notices from February 11, 1988, to May 13, 1988.

DATE: Comments must be received on or before May 13, 1988.

ADDRESS: Address comments to the Dockets Unit, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8426 of the Nassif Building, 400 7th Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m., and 5:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration, RRS-2, Washington, DC 20590, Telephone (202) 366-0897.

Issued in Washington, DC, on February 11, 1988, under authority delegated in 49 CFR Part 106, Appendix A.

Elaine Economides,

Deputy Director, Office of Hazardous Materials Transportation.

[FR Doc. 88-3377 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-61]

Released Rates of Motor Common Carriers of Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition to reopen; notice of proposed rulemaking.

SUMMARY: The Movers' & Warehousemen's Association of America, Inc., has petitioned the Commission to reopen this proceeding to consider increasing the minimum lump sum value declaration for interstate shipments of household goods, from $1.25 per pound to $3.00 per pound, if evidence as to the current average value of household goods in a shipment should warrant. The present valuation was set in 1966, and petitioner asserts that it is clearly out of date. An increase in the valuation would recognize the effects of inflation during the intervening years and help avoid undervaluation of household goods shipments for purposes of assessing the carriers' liability for loss and damage claims. The change in valuation would be made by modifying Released Rates Order No. MC-505. A change in the valuation would require corresponding changes in 49 CFR 1056.11 (as set forth in this notice) and in the text of Form OCP-100, Your Rights and Responsibilities When You Move.

DATES: Comments may be filed on or before March 21, 1988.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. MC-61, to: Office of the Secretary, Case Control Branch, Rm. 1324, Interstate Commerce Commission, Washington, DC 20423.

Send one additional copy of comments to petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: James L. Brown (202) 275-7898 or Mark S. Shaffer, (202) 275-7291 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the decision, write to the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275-7428 (assistance for the hearing impaired is available through TDD service at (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

The Commission certifies that the proposed amendment will not have a significant economic impact on a substantial number of small entities. The change in the regulation is a secondary matter, conforming the text of the regulation to the Commission's determination of the appropriate minimum, lump sum valuation applicable to household goods shipments. The purpose of the determination of the minimum valuation is to protect small shippers and small carriers alike by assuring that shippers do not unknowingly underestimate the value of their shipments, while avoiding forced overvaluation. The proposed change is intended to benefit shippers by providing greater base level protection for loss or damage. The added charge to shippers for this increased protection will be insignificant in most cases.

This action does not appear to affect signficantly either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1056

Moving of household goods, Consumer protection.

Decided: February 3, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons and Lamboley.

Noreta R. McGee,

Secretary.

Title 49, Chapter X, of the Code of Federal Regulations is proposed to be amended as follows:

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. The authority citation for Part 1056 continues to read as follows:

Authority: 49 U.S.C. 10321, 11109, 11110, and 5 U.S.C. 553.

2. Section 1056.11 is proposed to be amended revising the introductory clauses of the first sentence of paragraph (a) up to the second comma to read as follows:

§ 1056.11 Selling of insurance to shippers.

(a) When a shipment is released for transportation at a value not exceeding 60 cents per pound per article, and the shipper does not declare a valuation of $3.00 or more per pound and pay or agree to pay the carrier for assuming liability for the shipment equal to the declared value, * * *

* * * * *

[FR Doc. 89-3397 Filed 2-17-88; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 53, No. 32
Thursday, February 18, 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.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 12, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency persons named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer of USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extention

• Forest Service
Timber Sale Bid Forms
FS-2400-14, and FS-2400-42a
On occasion
Businesses or other for-profit; Small businesses or organizations; 30,000 responses; 5,000 hours; not applicable under section 3504(h)
Milo Larson (202) 475-3754

New

• Agricultural Marketing Service
Marketing Order 989-Raisins produced from grapes grown in California-Emergency Revision and use of RAC-1000
RAC-1000
Businesses or other for-profit; Small businesses or organizations; 1,000 responses; 50 hours; not applicable under section 3504(h)
Patricia Petrella (202) 447-3920

• Forest Service
Interpretive Association Annual Report
FS-2300-5
Annually
Non-profit institutions; 40 responses; 40 hours; not applicable under section 3504(h)
Gerald J. Coutant (202) 447-6477

Revision

• Farmers Home Administration
7 CFR Part 1980-B, Guaranteed Farmers Program Loans
FmHA 449-11, -12, 1980-15, -24, -25, -38, and -58
On occasion
Individuals or households; State or loacal governments; Farms; Businesses or other for-profit; 52,790 responses; 46,125 hours; not applicable under section 3504(h)
Jack Holston (202) 382-9736

• Farmers Home Administration
7 CFR Part 1980-A, Guaranteed Loan Program (General)
FmHA 449-14, -30, -35, and -36, 1980-19, -41, -43, and -44
On occasion
Businesses or other for-profit; 29,356 responses; 45,127 hours; not applicable under section 3504(h)
Jack Holston (202) 382-9736

• Food and Nutrition Service
National Commodity Processing Program for Processing USDA Donated Food
FNS -513, -516 and -519
Recordkeeping: Quarterly; Annual
Businesses or other for-profit; 60,470 responses; 12, 136 hours; not applicable under section 3504(h)
Joseph E. Shepard (703) 756-3585

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 88-3472 Filed 2-17-88; 8:45 am]
BILLING CODE 3410-01-M

Soil Conservation Service

Pott-Sem-Turkey Watershed, OK

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Pott-Sem-Turkey Watershed project, Pottawatomie and Seminole, Counties, Oklahoma.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

SUPPLEMENTARY INFORMATION: A determination has been made by C. Budd Fountain that the proposed works of improvement for the Pott-Sem-Turkey project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deathorized for the project. Information regarding this determination may be obtained from C. Budd Fountain, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

C. Budd Fountain,
State Conservationist.
[FR Doc. 88-3391 Filed 2-17-88; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 372]

Designation of New Grantee for Foreign-Trade Zone 127, West, Columbia, SC

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

After consideration of the request with supporting documents (Docket 6–87, filed June 2, 1987) of the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 127, West Columbia, South Carolina, for reissuance of the grant of authority for said zone to the Richland-Lexington Airport District, a South Carolina public corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Richland-Lexington Airport District as the new grantee of Foreign-Trade Zone 127, West Columbia, South Carolina.

Signed at Washington, DC, this 7th day of February, 1988.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration, Chairman, Committee of Alternates.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–3468 Filed 2–17–88; 8:45 am]

BILLING CODE-3510-DS-M

[Docket No. 8-88]

Foreign-Trade Zone 84, Houston, TX; Application for Extension of Zone Status

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority (PHA), grantee of FTZ 84, requesting an extension of zone status for a number of zone sites. The application was formally filed on February 8, 1988.

In July 1983, the Board authorized PHA to establish a multi-site foreign-trade zone in the Houston area (Board Order 214, 48 FR 34792, August 1, 1983). The order covered 5 PHA sites, approved without a time restriction, and 28 private sites for a 5-year period ending July 15, 1988, subject to extension upon review. It was because of the unusual nature of this zone plan, which included a requirement that all sites be operated under a central inventory control system approved by the U.S. Customs Service, that the private sites were approved with the time restiction. Amendments which have been approved in designated sites in the interim were made subject to the restrictions imposed by the original grant.

PHA is now requesting an indefinite extension of zone status for 15 of the private (non-PHA) sites. In requesting this extension, PHA has retained the sites it indicates are needed to effectively provide zone services in the Houston area.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph E. Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Don Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057–3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553–1229.

Comments concerning the proposed extension are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 31, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 2625 Federal Courthouse, 515 Rush Street, Houston, Texas 77002.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 9, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–3469 Filed 2–17–88; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 9-88]

Foreign-Trade Zone 5, Seattle, WA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Seattle Commission (PSC), grantee of FTZ 5, requesting authority to expand the zone to include two additional sites in Seattle, within the Seattle Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 9, 1988.

The Seattle zone was approved in June 1949, and currently is located at PSC warehouse facilities (67,000 sq. ft.) within the port complex. The requested change would add several parcels of port and state owned property, totalling 1,396 acres at two sites. Site 1 (960 acres) is located at the seaport and includes a variety of port facilities, one being the existing zone site. Site 2 (436 acres) is an industrial/commercial site located at the Seattle-Tacoma International Airport.

The proposed sites are being requested to enable PSC to expand and improve zone services for prospective users. No requests for manufacturing approvals are being sought at this time. They would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph E. Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Daniel C. Holland, District Director, U.S. Customs Service, Pacific Region, 2039 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; and Colonel Phillip L. Hall, District Engineer, U.S. Army Engineer District Seattle, P.O. Box C–3755, Seattle, Washington 98124–2255.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 31, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Officer, 3131 Elliot Avenue, Suite 290, Seattle, Washington 98121.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Room 1529, Washington, DC 20230.

Dated: February 12, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–3470 Filed 2–17–88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; East Orange VA Medical Center et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 87-057. *Applicant:* East Orange VA Medical Center, Tremont Avenue, East Orange, NJ 07019. *Instrument:* Electron Microscope with Accessory, Model H-6010. *Manufacturer:* Nissei Sangyo America, Ltd., Japan. *Intended Use:* The instrument will be used to examine mesothelial tumors to better define particulates in these cases. In addition, the instrument will be used in the training of physicians including residents and medical students in its uses and applications. *Application Received by Commissioner of Customs:* November 26, 1986.

Docket No.: 87-093. *Applicant:* VA Medical Center, 1055 Clermont Street, Denver, CO 80220. *Instrument:* Electron Microscope. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* Examination of biopsy and surgical resection specimens including needle biopsies of the kidney and cancers from various sites. In addition, the instrument will be used for the education of residents in pathology, in postgraduate medical education preparing them for careers in medical specialty of Anatomical Pathology. *Application Received by Commissioner of Customs:* January 29, 1987.

Docket No.: 87-072. *Applicant:* University Corporation for Research, 1850 Table Mesa Drive, Boulder, CO 80303, *Instrument:* Mass Spectrometer System, Model Delta E. *Manufacturer:* Finnigan MAT GmBH, West Germany. *Intended Use:* Studies of the ratios of stable isotopes in a variety of compounds in the atmosphere and biosphere, most notably carbon-12 and carbon-13 isotopes as well as isotopes of nitrogen, oxygen, and sulfur. These studies are important in that differences in the isotope ratios can be used to help understand chemical cycles, reaction rates and mechanisms, and different enzymatic activities involved. The isotope ratio can serve as a fingerprint for a given compound or molecule to ascertain its origin based on the above factors. *Application Received by Commissioner of Customs:* January 20, 1988.

Docket No.: 88-073. *Applicant:* USDA-ARS, Southern Regional Research Center, 1100 Robert E. Lee Boulevard, New Orleans, LA 70124. *Instrument:* Fluorometer, Model SF-30 with Temperature Logger, Model TL-100F. *Manufacturer:* Richard Brancker, Ltd., Canada. *Intended Use:* The fluorometer will be used to determine variations in chlorophyll fluorescence intensity and thus effects on photosynthesis by stress. The temperature logger will be used to make accurate measurement of leaf temperatures in the plant canopy which are critical to experiments with cotton in the growth chamber and greenhouse. *Application Received by Commissioner of Customs:* January 20, 1988.

Docket No.: 88-074. *Applicant:* The University of Akron, 185 S. Forge Street, Akron, OH 44325. *Instrument:* Rotating Anode X-Ray Generator System, Model RU-200H. *Manufacturer:* Rigaku Corporation, Japan. *Intended Use:* The instrument will be used for the investigation of the crystal structure, morphology, phase transition kinetics of polymeric materials. The studies will involve thermodynamics and kinetics of phase transition and morphology of the phase in macromolecules. In particular, surface and interface structures of high melting, high strengh composite materials. The research plan also includes investigation of the relationship between microscopic structures and macroscopic properties. In addition, the instrument will be used for educational purposes in a polymer science course. *Application Received by Commissioner of Customs:* January 20, 1988.

Docket No.: 88-076. *Applicant:* Health Research, Inc., Roswell Park Division, 666 Elm Street, Buffalo, NY 14263. *Instrument;* Gas Chromatograph/Mass Spectrometer/Data System, Model MAT 90. *Manufacturer:* Finnigan MAT, West Germany. *Intended Use:* The instrument will be used for the following studies:

(1) Pharmacological and pharmacokinetic studies on cancer drugs and new drug candidates.

(2) Delineation of the chemical structure of a human tumor inhibitory factor which has been isolated from human fibroblasts.

(3) Characterization of novel photoproducts formed by the action of light on model nucleic acid compounds and correlation of these studies to the actual damage on normal and halogenated nucleic acids by irradiation with light.

(4) Investigation of nucleotide and nucleotide derivatives, amino acid analogs, antifolates, etc.

(5) In vivo metabolism of carcinogens like benzo(a)pyrene and aflatoxin and tumor promoters like pharbol esters. Elucidation of the structure of and the study of the nature of interaction between the activated metabolite and biological marcromolecules.

(6) Parent compound analysis of fractions isolated from environmental samples and from fish tissue in order to correlate the tumor frequency in selected species with the extent of environmental pollution.

(7) Identification and characterizing active compounds from cigarette smoke and tobacco leaves.

The instrument will also be used for education purposes in the courses: BPH 511 Biophysical Research Techniques and RPN 680 Independent Study. *Application Received by the Commissioner of Customs:* January 22, 1988.

Docket No.: 88-077. APPLICANT: Massachusetts Institute of Technology, 77 Massachusetts Ave., Cambridge, MA 02139. *Instrument:* Inductively Coupled Plasma/Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* Investigation of the elemental composition of oceanic and other natural waters and geological materials to determine geological behavior of the elements and history of samples. *Application Received by Commissioner of Customs:* January 22, 1988.

Docket No.: 88-078 *Applicant:* Northwestern University, Sponsored Projects Administration, 619 Clark Street, Evanston, IL 60208. *Instrument:* Mass Spectrometer System, Model VG70-250SE. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used to obtain exact mass information and confirm the elemental composition of the compound under study. Nearly all the samples generated from the studies are either involatile or thermally labile materials. The research will include the following:

(1) Total Synthesis of the Avermectin Alb and A2b,

(2) Total Synthesis of the Nikkomycins and Neopolyoxins,

(3) Synthetic Polymers with Enzyme-like Catalytic Activities,

(4) Characterization of Synthetic Oligonucleotides with Modified Backbones,

(5) Application of a High Resolution Mass Spectrometer to Structure Elucidation of Exploratory Photochemistry

(6) Transamidation Enzymes of the Endo-δ-Glutamine: E-Lysine Transferase Type,

(7) Synthetic and Mechanistic Studies of Metallocene Anti-tumor Agent,

(8) Metabolism of B-oxidized Nitrosoamines,

(9) Structure of Enzyme Active Site Adducts.

Application Received by Commissioner of Customs: January 22, 1988.

Docket No.: 88-079. Applicant: Northwestern University, Department of Chemistry, 2145 Sheridan Road, Evanston, IL 60208. *Instrument:* Stopped-flow Apparatus, Model SF 1A. *Manufacturer:* Tri-Tech Dynamic Instruments, Canada. *Intended use:* The instrument will be used to measure rates of reactions of anions with electrophiles. *Application Received by Commissioner of Customs:* January 22, 1988.

Docket No.: 88-080. Applicant: Texas A & M Research Foundation, Box 3578, College Station, TX 77843-3578. *Instrument:* Multi-mixing Stopped-flow Attachment and Anaerobic Kit. *Manufacturer:* Hi-Tech Scientific, Ltd., United Kingdom. *Intended use:* The instuments are attachments to an existing stopped-flow spectrometer which is being used for the study of the mechanism of bacterial luciferase. *Application Received by Commissioner of Customs:* January 22, 1988.

Docket No.: 88-081. Applicant: University of Miami, Department of Geological Sciences, P.O. Box 9176, San Amaro Drive, Science Building, Coral Gables, FL 33124. *Instrument:* Mass Spectrometer, Model PRISM. *Manufacturer:* VG Instruments, United Kingdom. *Intended use:* The instrument will be used for isotope research; specifically analysis of the concentration of smoke particles from natural forest fires in the same sediments (Globigerinaooze from the deep-sea floor) used for climatic work. It is expected that the work on smoke will provide clear evidence for the effect of smoke in the atmosphere during the past and, therefore provide guidance for future controls on smoke production. In addition, the instrument will be used for formal training (500-level course in Geophysics, Geochemistry, and Isotope Geology). *Application Received by Commissioner of Customs:* January 22, 1988.

Docket No.: 88-085. Applicant: University of Arizona, Arizona Cancer Center, 1515 North Campbell Room 3945, Tuscon, AZ 85724. *Instrument:* Cytogenetic Scanning Analyzer System. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended use:* The instrument will be used for studies of chromosomes from cancer cells in order to identify recurring genetic changes characterizing human cancer cells. In addition, the instrument will be used to introduce the basic tenets of cancer genetics and cytogenetics to graduate students enrolled in the Cancer Biology Graduate Program *Application Received by Commissioner of Customs:* January 26, 1988.

Docket No.: 88-086. Applicant: The Pennsylvania State University, Department of Chemistry, 152 Davey Laboratory, University Park, PA 16802. *Instrument:* Mass Spectrometer, Model M25SE. *Manufacturer:* Kratos Scientific Instruments, United Kingdom. *Intended use:* The instrument will be used to study materials from several areas of chemical and biochemical research, including newly synthesized compounds, reaction byproducts isolated from various sources. Mass spectrometry will be used to determine the molecular weight and fragmentation patterns of molecules of the compound under investigation. *Application Received by Commissioner of Customs:* January 27, 1988.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-3471 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be amended.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a cetificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 84-2A012."

OETCA has received the following application for an amendment to Export Trade Certificate of Review #84-00012, issued on June 11, 1984 (49 FR 24581, June 14, 1984).

Applicant: Northwest Fruit Exporters, 1005 Tieton Drive, Yakima, Washington 98902.

Contact: Kenneth Severn, secretary-treasurer, telephone: (509) 453-4837.

Application number: 84-2A012.

Date deemed submitted: February 1, 1988.

Summary of the Application

Northwest Fruit Exporters seeks to amend its certificate to:

1. Add the following company as a "Member" within the meaning of § 325.2(l) of the Regulations (15 CFR 325.2(l)): Muriel Oliver-Winterscheid, Mercer Island, WA.

2. Delete each of the following companies as a "Member" of the certificate: Andrus & Roberts Produce Company, Sunnyside, WA; Highland Fruit Growers, Yakima, WA; Obert Cold Storage, Zillah, WA; Phillippi/Pro Pak, Wenatchee, WA; Roche Fruit Company, Yakima, WA; and Yakima Fruit & Cold Storage, Yakima, WA.

3. Change the following "Member" company names: (a) Change "Pacific Fruit Company" of Yakima, WA to "Amerifresh"; (b) change "The Dalles

Cherry Growers" of The Dalles, OR to "Oregon Cherry Growers"; and (c) change "Wenatchee Wenoka Growers" of Wenatchee, WA to "Chief Wenatchee Growers."

4. Change the locations of the following "Member" companies: (a) Mojonnier & Sons from Walla Walla, WA to Sunnyside, WA; and (b) Stadelman Fruit, Inc. from The Dalles, OR and Yakima, WA to Yakima, WA only.

Dated: February 11, 1988.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88-3384 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

ACTION: Notice of name change by holder of Export Trade Certificate of Review No. 87-00015.

On January 14, 1988, the Department of Commerce, with the concurrence of the Department of Justice, issued an export trade certificate of review to the Aluminum Recycling Export Association (53 FR 1656, January 21, 1988). The Aluminum Recycling Export Association has changed its name to Recycled Export Aluminum Co. The Export Trade, Export Trade Facilitation Services, Export Markets, Export Trade Activities, and Methods of Operation covered by the certificate of review are unchanged. The certificate of review remains in effect under the holder's new name.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

Date: February 11, 1988.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88-3447 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Announcing Applications Under Minority Business Development Center Program; Fayetteville, NC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *07/01/88* to *06/30/89*. The MBDC will operate in the *Fayetteville, North Carolina* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-88013-01* for the *Fayetteville, North Carolina* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational instutions.

The MBDC will provide managment and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is deigned to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit for information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date. The closing date for applications is March 15, 1988. Applications must be postmarked on or before March 15, 1988.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: February 11, 1988.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Tuesday, March 1, 1988 at 9:00 a.m.

[FR Doc. 87-3385 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-21-M

Announcing Applications Under Minority Business Development Center Program; Raleigh/Durham, NC

February 3, 1988.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate on MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $227,647 for the project performance of 07/01/88 to 06/30/89. The MBDC will operate in the Raleigh/Durham, North Carolina Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of $193,500 in Federal funds and a minimum of $34,147 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is 04-10-88015-01 for the Raleigh/Durham, North Carolina SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is March 15, 1988. Applications must be postmarked on or before March 15, 1988.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: February 11, 1988.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Tuesday, March 1, 1988 at 9:00 a.m.

[FR Doc. 88-3386 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-21-M

Announcing Applications Under Minority Business Development Center Program; Charleston, SC

February 3, 1988.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency, (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *07/01/88* to *06/30/89*. The MBDC will operate in the *Charleston, South Carolina* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04-10-88011-01* for the *Charleston, South Carolina* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to indiviudals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is March 15, 1988. Applications must be postmarked on or before March 15, 1988.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309 (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: February 11, 1988.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Tuesday, March 1, 1988 at 9:00 a.m.

[FR Doc. 88-3387 Filed 2-17-88;8:45 am]

BILLING CODE 3510-21-M

Announcing Applications Under Minority Business Development Center Program; Columbia, SC

February 3, 1988.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *07/01/88* to *06/30/89*. The MBDC will operate in the *Columbia, South Carolina* Standard Metropolitan Statistical Area (SMSA).

The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contributions and fees for services). The Project Number is *04-10-88012-01* for the *Columbia, South Carolina* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is March 15, 1988. Applications must be postmarked on or before March 15, 1988.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309. (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.80 Minority Business Development Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: February 11, 1988.

A pre-application conference to assist all interested applications will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Tuesday, March 1, 1988 at 9:00 a.m.

[FR Doc. 88-3388 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-21-M

Announcing Applications Under Minority Business Development Center Program; Greenville/Spartanburg, SC

February 3, 1988.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-yerar period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *07/01/88* to *06/30/89*. The MBDC will operate in the *Greenville/Spartanburg, South Carolina* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contributions and fees for services). The Project Number is *04-10-88014-01* for the *Greenville/Spartanburg, South Carolina* SMSA.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic review culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is *March 15, 1988*. Applications must be postmarked on or before *March 15, 1988*.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309, (404) 347-4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: February 11, 1988.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia, Tuesday, March 1, 1988 at 9:00 a.m.

[FR Doc. 88-3389 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Administrative Committee, will convene separate public meetings at the Hotel Villa Parguera, La Parguera, Lajas, Puerto Rico as follows:

Council—On March 9, 1988, will convene its 62nd regular public meeting at 9 a.m., to consider status reports of fishery management plans (FMPs); a preliminary draft queen conch (*Strombus gigas*) FMP; a proposal of the U.S. Virgin Islands for Federal management of certain species of reef fishes; procedures to implement the proposed revisions to the Code of Federal Regulations, Guidelines for FMPs, as well as discuss other technical and administrative matters. The meeting will adjourn at 5 p.m., recovene March 10 at 9 a.m., and adjourn at noon.

SSC—On March 7 at 2 p.m., will also consider the proposed revisions to the Code of Federal Regulations, Guidelines for FMPs, a preliminary draft queen conch FMP, and a report on ecosystem modelling of reef fish habitat interactions. The public meeting will adjourn at 6 p.m., reconvene March 8 at 2:30 p.m., and adjourn at 6 p.m.

Administrative Committee—will convene March 8 at 2:30 p.m., to consider the Council's budget and regular administrative operations, and adjourn at 6 p.m. For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; (809) 753-4926.

Dated: February 11, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-3414 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Meeting Cancellation

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The public meeting for the South Atlantic Fishery Management Council's Summer Flounder Committee to be convened February 29, 1988, and published previously in the **Federal Register** (53 FR 3908, February 10, 1988), has been cancelled. Notification of rescheduling, if any, will be provided at a later date.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571-4366.

Date: February 11, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-3415 Filed 2-17-88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command, Directorate of Personal Property; 18 Month Time Limit on Scoring Household Goods Shipments

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: The Department of Defense is proposing to place a time limit on goods shipments.

SUMMARY: Household goods shipments that have not been scored by the transportation office, nor brought to the attention of the transportation office by the carrier, over 18 months after the pickup date, are considered null and will not be scored or considered in future appeals. The policy will apply to domestic and international shipments. A change to DOD 4500.34R is pending.

DATES: Comments must be submitted on or before March 21, 1988.

ADDRESS: Comments should be addressed to Headquarters, Military Traffic Management Command, ATTN: MT-PPQ, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms Betty Wells, HQMTMC, ATTN: MT-PPQ, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, (703) 756-1784.

SUPPLEMENTARY INFORMATION: Presently, all international and domestic through government bill of lading (ITGBL and TGBL) household goods shipments must be evaluated and scored. While carriers and transportation officers strive to capturer every shipment, there are cases in which a shipment may get overlooked. If a transportation office discovers a shipment that has not been scored, they must immediately score the shipment and offer the carrier 30 days in which to appeal the score. If the score is good, there is usually no problem. However, if the score is unfavorable, complaints are that DOD is using old shipment data and unfairly penalizing the carrier on something that happened sometimes 2 or 3 years ago. In addition, if a carrier brings forth a shipment and alleges that it has not been scored, if the shipment is too old, research must be done to validate this claim. Allowing 18 months to score a shipment should give transportation offices time to purge their files during a certain time frame and give industry 3 performance cycles in which to catch any shipments that may have been overlooked by the ITO.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 87-3390 Filed 2-17-88; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command, Directorate of Personal Property; Free Tonnage for Pulled/Turned Back Shipments

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, (DOD).

ACTION: The Department of Defense is proposing to offer shipments that have been pulled/turned back within 5 days of the pickup dates as free tonnage to the new carrier that accepts the shipment.

SUMMARY: Currently, the only free tonnage shipments are those that have 5 or less days from the interview date to the pickup date. However, we believe that shipments that have been pulled/turned back within 5 or less days of the pickup date are indeed short-notice shipments when reallocating to the new carrier. We are considering offering such shipments to the new carrier and not charging the tonnage against the carrier on the tonnage distribution record. This policy applies to domestic and international programs. A change to DOD 4500.34R is pending.

DATES: Comments must be submitted on or before March 21, 1988.

ADDRESS: Comments should be addressed to Headquarters, Military Traffic Management Command, ATTN: MT-PPQ, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms Betty Wells, HQMTMC, ATTN: MT-PPQ, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, (703) 756-1784.

SUPPLEMENTARY INFORMATION: Household goods shipments that have been pulled back from a carrier by the transportation officer (TO) or shipments that carriers have had to turn back to the TO that are within 5 days of the pickup date must be handled as expeditiously as possible. As the pull-back/turn-back shipments are "short" due to no fault of the TO or the new carriers that the shipments are allocated to, it would seem to be in the best interest of DOD to give carriers some

type of incentive so that these type shipments will move as quickly as possible.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 88-3392 Filed 2-17-88; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Supplement to the Final Environmental Impact Statement, Pump Storage, Richard B. Russell (RBR) Dam and Lake, Georgia and South Carolina

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Supplement to a Final Environmental Impact Statement.

SUMMARY:

1. The Proposed Action

a. Background. The U.S. Army Engineer District, Savannah, operates the RBR Dam and Lake Project on the Savannah River as a multipurpose project for hydropower, flood control, and recreation. The project is located in Elbert and Hart Counties, Georgia, and Abbeville and Anderson Counties, South Carolina. A Final Environmental Impact Statement (FEIS) on the project was filed with the Council on Environmental Quality in 1974. Construction on the dam began in 1976, and the project's four conventional 75,000 kilowatt generator units became operational in 1985. The Savannah District is installing four 75,000 kilowatt reversible pump-turbines to add pump storage capabilities to the project. Installation of the four pump-turbines is scheduled to commence in 1988, and this action should be completed by 1990. A supplement to the FEIS on the RBR project concerning the addition of pump storage was prepared in 1976. Further analyses of the impacts of pump storage were included in a FEIS, prepared in 1979, which accompanied the Feasibility Report. A Record of Decision on this FEIS was signed in August 1980.

b. Proposed Action. The U.S. Army Engineer District, Savannah, proposes to prepare a supplement to the FEIS on the addition of pump storage at the RBR project. The supplement will address possible, further mitigation needs relating to the operation of the four reversible pump-turbines. A fish and wildlife mitigation plan for the RBR project was prepared and approved by the Assistant Secretary of the Army (Civil Works) in 1982. Since the approval of the mitigation plan, the District has conducted additional studies regarding the impacts of pump storage operations at RBR including fishery data collection efforts, investigations into fish protection measures, water quality analyses, and hydraulic modeling studies. The purpose of this supplement is to discuss the results of these studies and determine if further mitigation measures relating to pump storage operation are appropriate.

2. Alternatives

The four pump-turbine motor-generator units to be installed have the capability to be used as conventional power generators like the four 75,000 kilowatt generators already operating. They may also be used to pumpback water from J. Strom Thurmond Lake (formerly known as Clarks Hill Lake) during hours when peak electrical demand is low. The "additional" water then becomes available for power generation. Studies have been conducted to address concerns regarding the potential for fish from downstream J. Strom Thurmond Lake being entrained during pumpback operation, and subsequently, drawn into the units and either killed or injured. Studies are also being conducted to address the potential for impingement should some type of fish protection structure be required. The results of these studies will be used to evaluate the following mitigation alternatives.

a. Structural Alternatives—Bar rack, fish attractors, and fish repuslors.

b. Nonstructural Alternatives—Modified operation in the pumpback mode to avoid critical periods (i.e., spawning season) or not operating the units in the pumpback mode.

c. Combination of structural and nonstructural alternatives.

d. No-Action Alternative—Operate the four units in the pumpback mode with no fish protection measures.

In addition to the above alternatives, the supplement will address the need for post-operation fishery studies to assess the impacts of pump storage after the pump-turbines become operational.

3. Scoping Process

a. *Scoping Meeting.* No formal scoping meeting will be held. The District will hold a public forum this spring to obtain input to the SFEIS from other Federal, State, and local agencies, and the general public. A workshop involving the U.S. Fish and Wildlife Service and the State game and fish agencies of Georgia and South Carolina was held in May 1987. This workshop was held to discuss the fishery data being collected by the District, and to receive input from the agencies on fish protection at RBR. A second workshop is planned for December 1988. A media information day was held in September 1987, and a second is planned for the summer or fall of 1988.

b. *Significant Issues in the SFEIS.* The most significant issue to be analyzed in the supplement centers around the potential impacts to the fishery downstream of RBR during pumpback operations. J. Strom Thurmond Lake contains a valuable warmwater fishery, and its headwaters (RBR trailrace and vicinity) are considered an important striped bass (*Morone saxatillis*) and hybrid bass fishery. Fishery data collected to date indicates the RBR tailrace is inhabited by these as well as other species. The supplement will analyze concerns relating to the potential for entrainment or impingement during pumpback, and the need for any additional mitigation to offset adverse impacts.

c. *Supplement Preparation.* Based on the current schedule to complete the fishery data collection efforts, hydraulic modeling and fish protection evaulation, the supplement should be available in July 1989.

ADDRESS: Questions about the proposed action and supplement to the FEIS can be answered by: U.S. Army Engineer District, Savannah, ATTN: CESAS-PD-E/Mr. Mark McKevitt, P.O. Box 889, Savannah, Georgia 31402-0889, Telephone: (912) 944-5389 (FTS 248-5389).

Dated: February 12, 1988.

Stanley G. Genega,

Colonel, Corps of Engineers Commander.

[FR Doc. 88-3448 Filed 2-17-88; 8:45 am]

BILLING CODE 3710-HP-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Planning and Technology Base Task Force will meet March 1-2, 1988 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to explore the relationship between Navy strategic planning process and the Technology Base. The entire agenda for the meeting will consist of discussion of key issues regarding the integration of

technology management with strategic planning and requirements definition, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: February 12, 1988.

D.A. Guy,

Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 88-3454 Filed 2-17-88; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Laser Weapons will meet on March 1-2, 1988. The meeting will be held at the Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, Virginia. The meeting will commence at 9:00 a.m. and terminate at 4:30 p.m. on March 1; and commence at 9:00 a.m. and terminate at 4:00 p.m. on March 2, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide for the Navy an assessment of the potential military value of laser technology for weapons applications. The agenda will include technical briefings and discussions addressing military laser weapon programs. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (202) 696-4870.

Date: February 11, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88-3376 Filed 2-17-88; 8:45 am]

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 24, 1988 beginning at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Philadelphia Electric Company (PECO) D-69-210 CP Final: Revisions 5 and 6.* Extensions through 1988 of temporary approvals granted in Docket Revisions 5 and 6 providing for the substitution of DO limitations for the temperature restriction; allowing for the transfer of consumptive use from Cromby and Titus Units to Limerick Unit 1; and authorizing consumptive water use at Limerick whenever the consumptive use has been replaced in equal volume by water released from Still Creek and/or Owl Creek Reservoirs. The facilities and reservoirs are located in Montgomery and Schuylkill Counties, Pennsylvania.

2. *National Park Service, Upper Delaware Scenic and Recreational River Final River Management Plan D-78-51 CP (Revised).* An application for revision of the Delaware River Basin Commission's (DRBC) Comprehensive Plan to incorporate features of the Final River Management Plan approved by the Secretary of the Interior on September 29, 1987. The plan provides the basis for creation of a new intergovernmental cooperative advisory structure to involve the National Park Service, the State of New York, the Commonwealth of Pennsylvania, DRBC, and up to 15 towns and townships in the 5-county Upper Delaware region, to be called the Upper Delaware Council. The Management Plan was developed in accordance with the National Parks and Recreation Act of 1978 (section 704(c) of Pub. L. 95-625) in cooperation with the conference of Upper Delaware Townships, National Park Service, the states, the counties, the towns and townships in both States, the Citizens Advisory Council and DRBC. The Plan includes: (1) Boundary maps; (2) A program for the management of existing and future land and water uses; (3) An analysis of economic and environmental costs and benefits of Plan implementation; (4) A program providing for coordinated implementation and administration of the Plan to involve appropriate governmental units at federal, state, regional and local levels. The boundary maps indicate the land area influenced by the Scenic and Recreational River designation has been reduced since the 1978 DRBC decision.

3. *Northampton, Bucks County, Municipal Authority D-79-81 CP Renewal-2 (Well No. 8); D-81-25 CP Renewal (Well No. 9); D-80-91 CP Renewal (Well No. 11).* Applications for the renewal of three ground water withdrawal projects to supply up to 4.7 million gallons (mg)/30 days from Well No. 8; 8.64 mg/30 days from Well No. 9; and 5.61 mg/30 days from Well No. 11. Commission approval of Well No. 11 on November 23, 1982 was limited to five years and will expire unless renewed. Well Nos. 8 and 9, approved on February 27, 1985 and October 24, 1984, respectively, are subject to review in conjunction with Well no. 11 and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to the current allocations. The projects are located in Northampton Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Weatherly Borough Municipal Authority D-80-80 CP Renewal.* An application for the renewal of a ground water withdrawal project to supply up to 2.85 mg/30 days of water to the applicant's distribution system from Well No. 3. Commission approval on February 23, 1983 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 12 mg/30 days. The project is

located in Weatherly Borough, Carbon County, Pennsylvania.

5. *Schuylkill Haven Bleach and Dye Works, Inc. D-81-30 Renewal.* An application for the renewal of a ground water withdrawal project to supply up to 7.2 mg/30 days of water to the applicant's bleach and dye works from Well Nos. 1, 2 and 3. Commission approval on May 25, 1983 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 7.2 mg/30 days. The project is located in Schuylkill Haven Borough, Schuylkill County, Pennsylvania.

6. *W.R. Grace & Company D-82-31 Renewal.* An application for renewal of a ground water withdrawal-ground water injection system from Well Nos. 1 and 2 of the W.R. Grace & Company's plant in the Borough of Quakertown, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area. Commission approval was limited to five years and will expire unless renewed. The applicant has requested approval to continue operation of Well Nos. 1 and 2 in accordance with existing approval limitations. The applicant proposes to decrease the withdrawal from Well No. to 2.40 mg/30 days.

7. *Northampton, Bucks County, Municipal Authority D-87-21 CP.* An application for a new ground water withdrawal from Well No. 14 to augment existing ground and surface water supplies for the Northampton Municipal Authority. Approval is requested to pump 2.16 mg/30 days from Well No. 14. The well is located about 300 feet north of Almshouse Road and 900 feet west of Second Street Pike in Northampton Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Metropolitan Edison Company D-87-26.* An application to modify the coal pile runoff collection system at the applicant's Titus Generating Station located in Cumru Township, Berks County, Pennsylvania. Two earthen basins and an unlined peripheral ditch network will be upgraded. Aggregate lined peripheral collection ditches will be provided. Also, the clay lined basins will be reconstructed and include synthetic liners with increased retention capacity. No expansion of the 2.8 million gallons per day (mgd) treatment plant capacity is requested. Treatment plant effluent will continue to be discharged to the Schuylkill River through outfall 006.

9. *Northampton Bucks County Municipal Authority D-87-48 CP.* An application for a ground water withdrawal of 5.62 mg/30 days from Northampton Bucks County Municipal Authority Well No. 10. The well is located 2800 feet north of the intersection of Elm Avenue and Holland Road in Northampton Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

10. *Pennsylvania Power and Light Company D-87-56.* An application to construct an ash basin (No. 4) for the disposal of bottom and fly ash residuals from the applicant's Martins Creek Steam Electric Station. The basin will be located on a 57-acre area, less than one mile northwest of the generating units. The power plant is located in Lower Mount Bethel Township, Northampton County, Pennsylvania. Existing ash basin No. 3 is expected to reach capacity in mid-1990 and ash basin No. 4 is designed to have a 30-year life. The project will involve clearing grub and excavating a nonwetland area prior to installing a geotextile fabric and a 30-mil thick, hypalon liner. Discharge from the proposed basin will be conveyed by a new 33-inch diameter, reinforced concrete pipe to the existing outfall line that serves ash basin No. 3. Outfall 013 then discharges to the Delaware River in Water Quality Zone 1D.

11. *Eastern Industries, Inc. D-87-73.* An application to withdraw up to 1.08 mgd of water from Buckwha Creek to serve the applicant's crushing/washing facility at its quarry in Lower Towamensing Township, Carbon County, Pennsylvania. The applicant also plans to upgrade and expand several settlement ponds and detention basins in order to enhance effluent recirculation capacity. The applicant does not plan to operate the plant on weekends or during the winter. A variable, but small amount of settled process wastewater and stormwater runoff will be discharged back to Buckwha Creek through a new outfall line. The process wastewater treatment system is designed to meet water quality limitations established to protect the receiving stream.

12. *Perkasie Borough Authority D-87-75 CP.* An application for approval of a ground water withdrawal project to supply up to 500 gpm of water to the applicant's distribution system from new Well No. 11. The well is located in Perkasie Borough, 2200 feet northwest of the intersection of Orchard Road and Route 152. The project is located in Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

13. *Mount Laurel Municipal Utilities Authority D-87-87 CP.* An application to rerate the Hartford Road Sewage Treatment Plant to treat an average flow of 2.95 mgd. The existing 2.4 mgd plant provides secondary treatment of wastewater from residential, commercial, and industrial users in Mount Laurel Township, Burlington County, New Jersey. Treatment plant effluent will continue to be discharged to Rancocas Creek which is tidal at the outfall. The applicant has recently submitted an application (D-87-68 CP) that will ultimately expand the plant to treat 4.0 mgd.

14. *Borough of Clementon D-87-92 CP.* An application for approval of a ground water withdrawal project to supply up to 21.6 mg/30 days of water to the applicant's distribution system from existing replacement Well No. 11, and to retain the existing withdrawal limit from all wells of 30 mg/30 days. The project is located in Clementon Borough, Camden County, New Jersey.

15. *Atlantic City Electric Company D-87-94.* An application for approval of a ground water withdrawal project to supply up to 21.6 mg/30 days of water to the applicant's generating station from existing Well No. 3R, and to limit withdrawal from all wells to 42 mg/30 days. The project is located in Pennsville Township, Salem County, New Jersey.

16. *Township of Horsham Sewer Authority D-88-2 CP.* An application for addition of an existing sewage treatment plant to the Comprehensive Plan and for approval to continue the operation of the treatment plant, located in Montgomery County, Pennsylvania, previously owned and operated by the Wichard Sewer Company. No expansion or changes to the project are requested in this application.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testity at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

February 9, 1988.

[FR Doc.88-3364 Filed 2-17-88; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Floodplain/Wetlands Involvement Notification for Enhancing the Use of Eastern and Midwestern Coals by Gas Reburning-Sorbent Injection at Illinois Power Co., Hennepin Station Boiler No. 1, Hennepin, IL

AGENCY: Department of Energy.

ACTION: Notice of Floodplain/Wetlands Involvement.

SUMMARY: Under the Clean Coal Technology Program, the Department of Energy (DOE) proposes to fund, in part, a project entitled "Enhancing the Use of Eastern and Midwestern Coals by Gas Reburning-Sorbent Injection at Illinois Power Company, Hennepin Station Boiler No. 1." Pursuant to the regulations of 10 CFR Part 1022 (DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements"), the DOE has determined that this action would involve activities within a floodplain, and therefore, the following notive is submitted for public review and comment.

DATE: Any comments are due on or before March 4, 1988.

ADDRESS: Address comments or requests to the Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236. All comments should refer to the project title.

FOR FURTHER INFORMATION CONTACT: Dr. Earl Evans, Environmental Project Manager, Pittsburgh Energy Technology Center, Department of Energy, Pittsburgh, PA, (412) 892-6237.

SUPPLEMENTARY INFORMATION:

I. Project Description

The proposed action involves the demonstration of the combined use of the technologies referred to as gas reburning with sorbent injection (GR-SI). The objective of the project is to demonstrate that GR-SI can reduce the emission of NO_x and SO_2. The demonstration of the GR-SI technology will be conducted on an 80 MWe coal-fired boiler at the Illinois Power Company, Hennepin Station. In general, GR-SI involves the introduction of natural gas above the main heat release zone in the boiler to produce a homogeneous, slightly oxygen-deficient zone. These conditions favor the formation of N_2 rather than NO_x. Downstream of this point, burnout air and a sorbent derived from limestone, injected into the flue gas stream, calcines to CaO, which in turn reacts with gas phase SO_2/SO_3 to form calcium sulfate. The calcium sulfate is subsequently removed along with the fly ash by the plant particulate control equipment and combined with the bottom ash to be disposed of a solid waste. These waste streams are sluiced to on-site ash ponds for disposal.

Hennepin Station contains two coal-fired steam electric generating units, with a total net generating capacity of 310 MWe. All porject construction will occur on-site during a 16-month period. Virtually all such activities involve internal structure retrofit; external structure construction activities are limited to the installation of sorbent storage and feeding equipment; these facilities would occupy an area of approximately 3500 square feet (less than 0.1 acre) in an industrially disturbed portion of the site. A 12-month period of testing will incur an increased truck transport of sorbent to the plant (about 2 trucks per day).

The Hennepin Power Station is a 533 acre facility located along the Illinois River in Putnam County, approximately 2 miles northeast of Hennepin, Illinois, and about 85 miles west-southwest of Chicago. The ash disposal ponds occupy about 56 acres of the site. The surrounding country is nearly level. There are no larger hills in the vicinity, but rolling terain is found near Spring Creek. The power plant lies in the Illinois River floodplain composed of thick loess alluvian and glacial outwash underlain by Pennsylvania age bedrock. Hennepin Station is within the boundaries of the Village of Hennepin, which is a village for which flood zone maps have not yet been created by the National Insurance Agency. However, the unincorporated areas immediately surrounding the Village of Hennepin have been mapped. Hennepin Station is enclosed on the east and west by areas which are within the 100-year floodplain and, therefore, meets the criteria for floodplain/wetlands as described in Executive Orders 11988 and 11990.

II. Floodplain Effects

Construction of the sorbent storage and feeding equipment could directly or indirectly affect the floodplain. Since the area affected is small (less than 0.1 acre), it is not expected to impact the existing plant stormwater collection system.

Current station ash generation equals approximately 25,300 lb/hour with GR-SI technology in place in Unit 1, this will increase 20% to about 31,450 lb/hour. No substantive changes in waste disposal practices are anticipated, with the additional ash being delivered to the existing ash pond system. This increase has the potential to reduce the long term capacity of the ash pond to handle future ash production.

Issued at Washington, DC, February 12, 1988.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88-3484 Filed 2-17-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-238-000 et al.]

Arizona Public Service Co. et al.; Electric Rate and Corporate Regulation Filings

February 11, 1988.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER88-238-000]

Taken notice that on February 8, 1988, Arizona Public Service Company (APS) tendered for filing an Agreement (Agreement) between APS and Southern California Edison Company (SCE) which provides for the use of a 34.5 kV Colorado River crossing located near APS' Empire Landing substation in the event of an outage on either APS' or SCE's system.

APS and SCE provide retail service on the Arizona and California sides of the Colorado River, respectively. The Agreement provides for use of said River Crossing in the event of an outage on either SCE's or APS's systems to allow continuation of such service. No rates or charges, addition of new facilities or modifications to existing facilities are proposed.

A copy of this filing has been served upon SCE, the California Public Utility Commission and the Arizona Corporation Commission.

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Company

[Docket No. ER88-239-000]

Take notice that on February 8, 1988, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during December 1987, along with cost justification for the rate charged. This filing includes the following supplements:

Pacific Gas & Electric Co., Supplement No. 29
City of Glendale, Supplement No. 33
Los Angeles Water & Power Co., Supplement No. 39
Sierra Pacific Power Co., Supplement No. 71
Southern California Edison Co., Supplement No. 43
Utah Power & Light Co., Supplement No. 73
Washington Water Power Company, Supplement No. 55

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Monongahela Power Company

[Docket No. ER88-206-000]

Take notice that on February 8, 1988, Monongahela Power Company tendered for filing a letter with the Commission pointing out that the filing made at this docket on January 26, 1988, had included an Electric Service Agreement with Harrison Rural Electrification Association which added a delivery point at Buckhannon, West Virginia, which delivery point entered service in 1977.

A copy of this amendment has been served upon all parties who received a copy of the original filing, including the Harrison Rural Electrification Association. Monongahela Power Company has requested that the new service point be deemed to have an effective date of September 4, 1977, the date of the Agreement therefor.

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Montana Power Company

[Docket No. ER88-240-000]

Take notice that on February 8, 1988, Montana Power Company (MPC) tendered for filing pursuant to section 205 of the Federal Power Act an agreement executed on December 30, 1987 for a seasonal energy and capacity exchange with Idaho Power Company. The contract is for a ten year term from January 1, 1988 to December 31, 1997.

MPC has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the agreement to become effective on the date indicated above in accordance with its terms.

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. San Diego Gas & Electric Company

[Docket No. ER88-241-000]

Take notice that on February 8, 1988, San Diego Gas & Electric Company (SDG&E) tendered for filing an amendment to the "Mutual Assistance Transmission Agreement" (Agreement) which has been executed by SDG&E, Southern California Edison Company (SCE), Imperial Irrigation District (IID) and Arizona Public Service Company (APS), collectively referred to as "Parties".

The amendment modifies the methodology of the Agreement to conform to the "Transmission System Operating Principles" (Principles) executed as of October 7, 1986 between the Parties, Los Angeles Department of Water and Power, Nevada Power Company and the Western Area Power Administration.

Waiver of the Commission's prior notice requirements is requested for an effective date of October 7, 1987 in accordance with that which was agreed upon in the Principles.

Copies of this filing were served upon the Public Utilities Commission of the State of California, SCE, IID, and APS.

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Utah Power & Light Company

[Docket No. ER88-237-000]

Take notice that on February 8, 1988, Utah Power & Light Company (Utah) tendered for filing pursuant to 18 CFR 35.30(c) Appendix 1 to the Residential Purchase and Sale Agreement between Utah Power & Light Company and Bonneville Power Administation. Utah states that this filing is also pursuant to the revised ASC methodology which was approved by the Federal Energy Regulatory Commission effective October 1, 1984. Idaho states that Bonneville's treatment of a refund in the Idaho jurisdiction is in violation of the revised ASC methodology.

Comment date: February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corporation, on behalf of West Penn Power Company, Monongahela Power Company, and The Potomac Edison Company

[Docket No. ER88-236-000]

Take notice that on February 8, 1988, Allegheny Power Service Corporation, on behalf of West Penn Power Company (as well as Monongahela Power Company and the Potomac Edison Company as applicable) tendered for filing changes in its FERC Schedule Nos. 35, 23, and in its Electric Service Agreement with Allegheny Electric Cooperative, Inc.

The proposed changes are to cancel Schedule No. 35, which expired by its own terms on December 31, 1985, and the supplements thereto, as well as to cancel the corresponding Schedules and supplements for Monongahela Power Company and the Potomac Edison Company, to revise Schedule No. 23 to reflect new tax rates, revising the corresponding Monongahela Power Company Schedule as well, and to add a connection point with Allegheny Electric Cooperative, Inc. Effective dates of December 31, 1985, for the cancellation of Schedule 35, January 1, 1988, for the revision to Schedule 23, and May 27, 1987, for the additional connection point have been requested.

Copies of the filing have been served upon the Companies involved, as well as upon Allegheny Electric Cooperative, Inc., the New Jersey Board of Public Utilities, the Maryland Public Service Commission, the Ohio Public Utilities Commission, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: February 25, 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. 88-3456 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-218-000 et al.]

El Paso Natural Gas Co. et al.; Natural Gas Certificate Filings

February 11, 1988.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

[Docket No. CP88-218-000]

Take notice that on February 1, 1988, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP88-218-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to install and operate a sales tap in order to permit the delivery of natural gas to Gas Company of New Mexico, a Division of Public Service Company of New Mexico (Gas Company) for resale to Mr. Orville Slaughter in San Juan County, New Mexico, all as more fully set forth in the request for authorization on file with the Commission and open to public inspection.

The request for authorization states that by order issued August 21, 1969, as amended, at Docket No. CP69-23 (42 FPC 562) the Commission granted El Paso certificate authorization for, *inter alia*, the continued operation of certain facilities and the sale of natural gas to Gas Company for resale to various consumers situated in San Juan County, New Mexico. It is stated that additional authorizations have since been requested by El Paso and granted by the Commission as necessary. Service to Gas Company is currently being provided pursuant to the Service Agreement between El Paso and Southern Union Gas Company dated November 1, 1971 (Service Agreement) which was accepted for filing effective as of February 3, 1972, by Commission letter order dated January 17, 1972, it is stated. It is submitted that said Service Agreement provides, *inter alia*, for the sale and delivery by El Paso and the purchase and receipt by Gas Company of natural gas for resale and general distribution in various communities and areas situated in certain production areas of the State of New Mexico.

The request for authorization further states that El Paso has received a written request from Gas Company for natural gas service at a tap which El Paso proposes to locate at a new point on El Paso's existing 16-inch San Juan Lateral 3-B trunk line in San Juan County, New Mexico. El Paso states that it is advised by Gas Company that the requested quantities of natural gas could be utilized by Mr. Slaughter to serve certain small power production and cogeneration facility natural gas requirements in San Jaun County, New Mexico. El Paso is advised further that Mr. Slaughter would utilize volumes of natural gas as fuel in a process to manufacture paint thinner from crude oil and any excess power from Mr Slaughter's cogeneration facility would be sold to the Farmington Utility Company.

In order to accommodate Gas Company's request, El Paso proposes to install a 2-inch sales tap and valve assembly, with appurtenances, to be referred to as the "Orville Slaughter Tap," at a point on the existing 16-inch San Juan Lateral 3-B trunk line in San Juan County, New Mexico. It is estimated that the cost of the Orville Slaughter Tap is $750.00. It is stated that the volumes of natural gas to be sold to Gas Company at the proposed sales tap would be delivered at a pressure of not more than 250 psig. El Paso has been advised that Gas Company would install a meter and regulator, with appurtenances, for measurement of deliveries of natural gas by El Paso to Gas Company.

El Paso states that the additional quantities of natural gas to be delivered would be sold by El Paso to Gas Company for resale to the Orville Slaughter Tap in order to accommodate projected Priority 3 requirements. The projected Priority 3 load growth which has precipitated Gas Company's request for natural gas service described herein, would be accommodated within the Monthly Average Day End Use Profiles that currently limit the quantities available to Gas Company from El Paso for services to Priority 3 requirements under El Paso's Permanent Allocation Plan. It is stated that the allocation among Gas Company's Priority 3 customers of deliveries from El Paso for service to Priority 3, including those volumes to be delivered through the proposed Orville Slaughter Tap, is the responsibility to Gas Company.

Comment date: March 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corporation

Docket No. CP88-211-000]

Take notice that on January 26, 1988, Northern Gas Company, Division of Enron Corporation (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-211-000, a request, pursuant to § 157.212 of the Commission's Regulations for authorization to realign certain volumes of Contract Demand and Seasonal Service to accommodate future deliveries of natural gas to Northern States Power Company (NSP), and to construct one delivery point and appurtenant facilities under Applicant's blanket certificate issued in Docket No. CP82-401-000 on September 1, 1982, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that by letter dated November 11, 1987, NSP has advised Applicant that it wishes to realign certain volumes of Contract Demand and Seasonal Service between existing delivery points.

Applicant further states that the requested delivery point would be constructed to accommodate natural gas deliveries to the communities of Spicer, Kandiyohi, and New London, Minnesota to be served by NSP.

It is stated that the peak day quantity would be 3,480 Mcf, and that the annual quantity would be 296,800 Mcf in the fifth year of service.

Applicant estimates the cost of construction for the proposed delivery point to be $36,400.

Comment date: March 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP88-216-000]

Take notice that on January 28, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-216-000 a request pursuant to § 284.223 of the Commission's Regulations, for authorization to provide a transportation service for Hadson Gas Systems, Inc. (Hadson), a marketer, under Applicant's blanket certificate issued in Docket No. CP87-115-000 on January 18, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transporation agreement dated November 25, 1987, and an amendment effective December 10, 1987, it proposes to transport natural gas for Hadson from various receipt points located Offshore Louisiana and Offshore Texas, and States of Texas, Alabama, Louisiana, Mississippi, New Jersey, and Massachusetts. It is stated that the gas is redelivered to points located at interconnections with Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Texas Gas Transmission Corporation, Southern Natural Gas Company, Texas Eastern Transmission Corporation, Consolidated Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, the downstream transporters. Tennessee delivers directly to Hadson's customers, Consolidated Edison Company of New York, Energy North, Inc., and Pennsylvania and Southern Gas Company, it is stated.

The Applicant further states that the peak day quantities would be 100,000 dekatherms, the average daily quantities would be 197 dekatherms, and that the annual quantities would be 71,905 dekatherms. Service under § 284.223(a) commenced December 5, 1987, as reported in Docket No. ST88-1547 (filed January 5, 1988).

Comment date: March 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP88-217-000]

Take notice that on January 29, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-217-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate an additional delivery point in Green County, Missouri, for the sale and delivery of gas to City Utilities of Springfield (City Utilities), under the authorization issued in Docket No. CP82-479-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that City Utilities has requested this additional delivery point in order to (1) serve two new peaking turbine generators and (2) to reinforce its gas distribution system in the east and southeast portions of Springfield, Missouri. It is stated that the projected delivery volume through these facilities is estimated to be 249,727 Mcf annually in 1989 increasing to 411,384 Mcf annually by 1993. It is stated that the maximum peak load is estimated to be 38,504 Mcf per day during summer operations and should remain relatively constant, it is further stated. It is estimated that the cost of construction is $16,170, which will be paid from treasury cash.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: March 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

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. 88-3457 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10079-001]

Adirondack Hydro Development Corp.; Surrender of Preliminary Permit

February 11, 1988.

Take notice that the Adirondack Hydro Development Corporation, permittee for the Brasher Falls Hydro Project No. 10079 located on the St. Regis River in St. Lawrence County, New York has requested that its preliminary permit be terminated. The preliminary permit was issued on January 20, 1987, and would have expired on December 31, 1989. The permittee states that analysis of the Brasher Falls Hydro Project did not indicate feasibility for development.

The permittee filed the request on January 5, 1988, and the preliminary permit for Project No. 10079 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3394 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10052-001]

Mercer Co., Inc.; Surrender of Preliminary Permit

February 11, 1988.

Take notice that Mercer Companies, Inc., permittee for the Rubber Mill Project No. 10052 located on the Fishkill Creek in Dutchess County, New York has requested that it preliminary permit be terminated. The preliminary permit was issued on December 24, 1986, and would have expired on November 30, 1989. The permittee states that analysis of the Rubber Mill Project did not indicate feasibility for development.

The permittee filed the request on January 21, 1988, and the preliminary permit for project No. 10052 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3396 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-209-000 et al.]

Cogeneration Partners of America et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

February 11, 1988.

Take notice that the following filings have been made with the Commission.

1. Cogeneration Partners of America

[Docket No. QF88-209-000]

On January 26, 1988, Cogeneration Partners of America (Applicant), of Metroview Corporate Center, 333 Thornall Street, Edison, New Jersey 08837, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Philadelphia, Pennsylvania and will consist of a reciprocating engine generator and a heat recovery steam generator. Thermal energy recovered from the facility will be used for space heating and cooling, and domestic hot water production. The net electric power production capacity of the facility will be 1480 kW. The primary source of energy will be natural gas. Construction of the facility will begin in September 1988.

2. Ethacoal North Dakota Corporation

[Docket No. QF88-197-000]

On January 19, 1988, Ethacoal North Dakota Corporation of 1501 North Cedar Street, Bonham, Texas 75418 submitted

for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility located on U.S. Highway 52 near Velva, North Dakota consists of a twin-unit, fifty megawatt, lignite-fired, electric power generating plant, which will be purchased from the Basin Electric Power Cooperative of Bismarck, North Dakota. The facility will have a rated net output capacity of forty-six megawatts with the process steam used in an ethanol plant and a cattle feed plant. 20 percent of the ownership interest will be held by an electric utility. Construction of the ethanol and feed plants will start before mid 1988 and is to be completed during 1989.

3. Union Carbide Corporation, Linde Division

[Docket No. QF88-208-000]

On January 25, 1988, Union Carbide Corporation, Linde Division (Applicant), of 39 Old Ridgebury Road, Danbury, Connecticut 06817-0001, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Deer Park, Texas. The facility will consist of a combustion turbine generator, a heat recovery steam generator, and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used in various processes by the Applicant and Lubrizol Corporation. The net electric power production capacity of the facility will be 45,950 kW. The primary source of energy will be natural gas. Construction of the facility will begin about June, 1988.

4. American Bituminous Power Partners, L.P.

[Docket No. QF87-494-001]

On January 15, 1988, American Bituminous Power Partners, L.P. (Applicant), of 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004-2010, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Marion County, West Virginia. The facility will consist of fluidized-bed boilers, an extraction/condensing steam turbine generator and related auxiliary equipment. Thermal energy recovered from the facility will be used to heat and humidify lumber drying kilns and/or dry wood bark. The net electric power production capacity of the facility will be 80 MW. The primary source of energy will be bituminous coal refuse. Construction of the facility will begin in 1989.

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. 88-3393 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA88-3-000]

Lion Petroleum Co.; Petition for Adjustment

February 11, 1988.

Take notice that on December 11, 1987, Lion Petroleum Company (Lion) filed with the Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) requesting that Lion be allowed to collect an NGPA section 108 price for gas sold from the Hasley No. 1 well in Kingfisher County, Oklahoma from April 1983 to May 1984.

Lion states that in response to pricing incentives offered by its gas purchaser, Lion attempted to enhance the production on the Hasley No. 1 well in December 1982. Lion states that it performed an acid treatment and installed a plunger lift on the well which increased the average daily production above the NGPA section 108 production limit of 60 Mcf per day. As a result of the enhanced production, gas sold from the well was disqualified from receiving a section 108 price from August 1983 to May 1984. Lion states that Commission regulations required it to file an application with the Commission within 150 days of the well's March 31, 1983 disqualification date to continue receiving the section 108 price, but that it failed to apply within the 150 day period.

Lion argues that it applied the enhanced recovery technique to prevent losing its lease and to recover incentive prices offered by its purchaser. Lion maintains that to penalize the operator, the partners in the well, and the royalty owners for attempting to increase production of natural gas under their lands, especially when the right to obtain the section 108 price was obtained due to a technicality would be unfair and inequitable.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions in Rule 214. All motions to intervene must be filed within 15 days after publication of the notice in the **Federal Register**.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-3395 Filed 2-17-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of December 14 Through December 18, 1987

During the week of December 14 through December 18, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Cowles Publishing Co., 12/18/87, KFA-0144

Cowles Publishing Co. filed an Appeal from a denial by the Assistant Manager for Administration of the DOE's Richland Operations Office of a Request for Information submitted under the Freedom of Information Act (FOIA). The Assistant Manager determined that the requested information, concerning the 1963 accidental release of Iodine 131 from the Hanford plutonium-uranium

extraction (Purex) plant, should be withheld under Exemption 6 of the FOIA. In considering the Appeal, the DOE found that the search for responsive documents was inadequate and that the Assistant Manager failed to provide a sufficient justification for withholding the requested material under Exemption 6. Accordingly, the matter was remanded with instructions to conduct a more thorough search and balance the privacy interest in the documents found against the public interest to be served by disclosure.

Environmental Task Force, 12/16/87, KFA-0142

The Environmental Task Force filed an Appeal from a partial denial by the Chief of the DOE's Freedom of Information and Privacy Act Branch of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE rejected the Appellant's contention that the search for responsive documents was inadequate: the DOE found that the search had been very extensive and well designed to unearth all requested materials. Accordingly, the Appeal was denied.

The National Security Archive, 12/18/87, KFA-0146

The National Security Archive filed an Appeal from a determination by the Deputy Assistant Manager for Information Services (Deputy Assistant) of the DOE's Office of Scientific and Technical Information (OSTI) of a request which the firm had submitted under the Freedom of Information Act. The NSA had sought a list of "limited reports" maintained by OSTI as well as program documents showing how OSTI determines whether access to a particular report should be limited. The Deputy Assistant identified, and released, three documents as being responsive to the request for program documents. In denying the request for a list of limited reports, she stated that the reports are maintained in a database and that providing a list from the database would constitute the creation of a new document, something that the FOIA does not require.

In considering the Appeal, the DOE found that while agencies are not required to create new documents in response to an FOIA request, the search and selection of data from a database does not constitute the creation of a new document for purposes of the FOIA. Consequently, the Deputy Assistant should have provided the NSA with a list of limited reports. In addition, the DOE found that additional documents responsive to the NSA's request for program documents might exist. Accordingly, the NSA's Appeal was granted and the matter was remanded to OSTI for a search for additional documents responsive to the NSA's request.

Petition for Special Redress

Iowa, 12/17/87, KEG-0024

The DOE issued a Decision and Order concerning the Petition for Special Redress filed by the State of Iowa. The State sought approval to use Stripper Well funds for a project found by the DOE's Assistant Secretary for Conservation and Renewable Energy to be inconsistent with the terms of the Stripper Well Settlement. After considering Iowa's Petition, the DOE decided to disapprove the State's proposal to use $500,000 as venture capital for energy conservation businesses. The DOE found that the program to provide grants of up to $50,000 as seed money for energy conservation businesses was designed to promote economic development, increase tax revenues, and provide new sources of employment. The DOE denied Iowa's Petition because the proposed program is more allied with economic stimulation than energy-related restitution.

Supplemental Order

A. Tarricone, Inc., et al., 12/14/87, KFX-0047

The DOE extended the deadline for filing crude oil refund applications in five refund proceedings: *A. Tarricone, Inc.*, 15 DOE ¶ 85,495 (1987); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986); *MAPCO, Inc.*, 15 DOE ¶ 85,097 (1986); *Kent Oil & Trading Co.*, 15 DOE ¶ 85,100 (1987); *O. B. Mobley, Jr.*, 16 DOE ¶ 85,006 (1987); and *Berry Holding Co.*, 16 DOE ¶ 85,405 (1987). The old deadline in these proceedings was December 31, 1987. The new deadline will be set forth in the final decision issued in the Ernest A. Allerkamp refund proceeding and will be no earlier than June 30, 1988.

Implementation of Special Refund Procedures

Eastern Oil Company, 12/14/87, KEF-0085

The DOE issued a Decision and Order finalizing procedures to be used in distributing funds received pursuant to a consent order entered into between the DOE and Eastern Oil Company, a reseller-retailer of motor gasoline, diesel fuel, and kerosene. The Decision discusses presumptions that will be applied in evaluating refund claims, and sets forth refund application procedures for customers who purchased motor gasoline, diesel fuel, and kerosene from Eastern during the period covered by the consent order (November 1, 1973 through October 31, 1974).

Refund Applications

Arland D. Macie, et al., 12/16/87, RF272-743, et al.

The DOE issued a Decision and Order approving refund from crude oil overcharge funds to 34 applicants based on their respective purchases of refined petroleum products during the period of August 19, 1973 through January 27, 1981. The applicants claimed a total of 3,045,998 gallons of petroleum product consumption. Since all the applicants were end-users of the products, their claims were granted without proof of injury. The total amount of refunds granted in this Decision and Order was $609.

Centra, Inc., et al., 12/14/87, RR270-27

The DOE issued a Decision and Order approving the Motion for Reconsideration filed by CenTra, Inc. on behalf of its subsidiaries from the Surface Transporters Escrow. In its Motion, CenTra requested that the DOE reconsider the volume of gallons it had excluded from the carrier's claim on the ground that they were purchased by owner-operators. *See CenTra, Inc., et al.*, 16 DOE ¶ 84,494 (1987). After examining the additional data which CenTra provided in support of its Motion, the DOE determined that a smaller number of gallons should have been excluded for owner-operators. The DOE approved an additional 59,166,197 gallons for CenTra. The total gallonage approved for CenTra is 401,585,042 gallons.

Cranston Oil Service Co., Inc., Benedetto A. Toti, et al., 12/17/87, RF276-14, et al.

The DOE issued a Decision and Order concerning 16 Applications for Refund filed by end-users of No. 2 hearing oil covered by a consent order that the agency entered into with Cranston Oil Service Company Inc., and its successor-in-interest Galego Oil Company. The Applications were evaluated in accordance with procedures set forth in *Cranston Oil Service Co.*, 14 DOE ¶ 85,499 (1986). The sum of the refunds approved in this Decision is $1,481, representing $1,294 in principal and $187 in interest.

Gary Energy Corp./H.S. Sowards & Sons, Inc., Utah-Colorado Gas, Inc., 12/14/87, RR47-1, RR47-2

The DOE issued a Decision and Order granting in part Motions for

Reconsideration filed by H.S. Sowards & Sons, Inc. (Sowards) and Utah-Colorado Gas, Inc. (UCG) in response to a Decision and Order denying the firms' Applications for Refund in the Gary Energy Corporation special refund proceeding. *Gary Energy Corp./H.S. Sowards & Sons, Inc.*, 14 DOE ¶ 85,482 (1986). Sowards had requested a refund of $129,538 and UCG had requested a refund of $5,571 based upon their purchases of Gary natural gas liquids products during the Gary Consent Order period. The DOE initially denied each firm's refund claim based upon a finding that the firms were consignee agents of Gary rather than independent resellers and that neither firm had provided evidence of economic injury as a result of Gary's alleged overcharges. Upon reconsideration, the DOE found that the firms were in fact independent resellers but that neither firm had made a showing of injury sufficient to support its full refund claim. Specifically, upon reconstructing each firm's banks of unrecouped increased product costs, the DOE found that Sowards' banks for butane and UCG's bank for propane were insufficient to support the full refunds claimed for those products. The firms' potential refunds for those products were reduced accordingly. The DOE further found that each firm had suffered a competitive disadvantage on its Gary purchases. Accordingly Sowards received a refund of $24,274 ($19,068 principal plus $5,206 interest) and UCG received a refund of $1,004 ($793 principal plus $211 interest).

Getty Oil Company/Della Construction Company, Inc., 12/17/87, RF265-458, RF265-459

The DOE issued a Decision and Order concerning two Applications for Refund filed by an end-user of products covered by a consent order that the DOE entered into with Getty Oil Company. The applicant submitted information indicating the volume of Getty products that was purchased. As an end-user, the applicant was entitled to receive the full volumetric refund. The sum of the refunds approved in this Decision is $5,975, representing $2,961 in principal and $3,014 in accrued interest.

Getty Oil Company/Delmar Modern Gas, et al., 12/17/87, RF265-2165, et al.

The DOE issued a Decision and Order concerning ten Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In nine of these cases, the applicants elected to limit their claims on the basis of the percentage presumptions of injury methodology and were eligible for a claim below the maximum $50,000 threshold. In the remaining case, the applicant elected to limit its claim to $50,000 in accordance with the level-of-distribution presumption of injury for propane. The sum of refunds approved in this Decision is $236,607, representing $117,227 in principal and $119,380 in accured interest.

Getty Oil Company/Hy-Grade Oil Company, et al., 12/17/87, RF265-52, et al.

The DOE issued a Decision and Order concerning 58 Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In 56 of these cases, the applicants elected to limit their claims on the basis of the percentage presumptions of injury methodology and were eligible for a claim below the maximum $50,000 threshold. In the remaining two cases, the applicant elected to limit its claims to $50,000 in accordance with the level-of-distribution presumption of injury for motor gasoline and the volumetric refund for lubricating oil. The sum of refunds approved in this Decision is $721,444, representing $357,443 in principal and $364,001 in accrued interest.

Getty Oil Company/Ronald J. Legg, et al., 12/17/87, RF265-88, et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed by resellers and retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. In six of these cases, the applicants were eligible for a claim below the $5,000 threshold. In the remaining three cases, the applicants, elected to limit their claims to $5,000. The sum of the refunds approved in this Decision is $30,429, representing $15,076 in principal and $15,353 in accrued interest.

Groendyke Transport, Inc., et al., 12/16/87, RF270-2502, et al.

The DOE issued a Decision and Order revising four previous Decisions which granted refunds to several applicants in the Surface Transporters refund proceeding. Due to inadequate deduction of owner-operator gallons and clerical errors, the volumes approved for evelen applicants were incorrect. The DOE, *sua sponte*, modified the four Decisions by reducing the approved volumes for six applicants, increasing the approved volumes for three applicants, and dismissing two applications because, after modification, the volumes claimed fell below the 250,000 gallon threshold for participation in the Surface Transporters Escrow.

Gulf Oil Corp./Doug's Gulf Service Station, Keener's Gulf Service, 12/14/87, RF40-2270, RF40-2398.

The DOE issued a Decision and Order granting a refund from the Gulf Oil Corporation escrow account to two purchasers of Gulf refined products. The applicants demonstrated their purchase volumes and showed that, as purchasers of Gulf products, they had been injured. A refund was granted on the full volumetric amount. The total refund approved was $3,135, representing $2,468 in principal and $667 in interest.

Indiana Refrigerator Lines, Inc., 12/16/87, RR270-15

The DOE issued a Decision and Order concerning a Motion for Modification filed by Indiana Refrigerator Lines, Inc. (IRL). IRL requested that the DOE reconsider a Decision that denied the firm a refund for purchases of petroleum products made as a Surface Transporter. *Curtis Transport Inc.*, 16 DOE ¶ 85,285 (1987). In considering IRL's Motion, the DOE found that the firm had not successfully met the burden of proof necessary to rebut the information found in the ICC reports filed as part of IRL's earlier application, i.e., that the purchases in question were made by independent-owner operators who drove trucks for the firm. Accordingly, IRL's Motion for Modification was denied.

Inman Oil Co./The Southland Corp., 12/15/87, RF293-9

The DOE issued a Decision and Order granting an Application for Refund filed by The Southland Corporation in the Inman Oil Company special refund proceeding. *Inman Oil Company*, 15 DOE ¶ 85,514 (1987). Southland claimed the portions of the Inman consent order funds that the Economic Regulatory Administration assigned to 7-11 Stores in Times Beach, Lebanon, and Arnold, Missouri. Since Southland owned the gasoline facilities at each of the stores during the Inman consent order period purchased all of the motor gasoline that was later resold at those facilities, we concluded that it was entitled to the stores' shares of the consent order funds. The sum of the three shares was less than $5,000, so Southland was presumed to have been injured under the retailer small claims presumption.

Accordingly, based upon Southland's submission, the DOE approved a total refund of $2,128, representing $1,104 in principal and $1,024 in accrued interest.

Marathon Petroleum Co./Bonded Oil Co., 12/16/87, RF250-2009, RF250-2010

The DOE issued a decision and Order concerning an Application for Refund filed by Bonded Oil Company in the Marathon Petroleum Company special refund proceeding. The DOE determined that Bonded, as a wholly-owned subsidiary of Marathon, was ineligible to receive a portion of the consent order funds remitted by Marathon. Accordingly, the Application for Refund was denied.

Marathon Petroleum Co./Port Oil, Inc., 12/16/87, RF250-2070

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of Port Oil, Inc. by Emro Marketing Company in the Marathon Petroleum Company special refund proceeding. Emro, the current owner of Port, sought a refund based on Port's purchases of Marathon product. The DOE determined that Emro, as a wholly-owned subsidiary of Marathon, was ineligible to receive a portion of the consent order funds remitted by Marathon. Accordingly, the Application for Refund was denied.

Marathon Petroleum Co./Township Oil Co., 12/18/87, RF250-2733

The DOE issued a Decision and Order concerning an Application for Refund filed by Township Oil Company in connection with the Marathon Petroleum Company special refund proceeding. Township, a reseller of Marathon motor gasoline, attempted to demonstrate that it was disproportionately overcharged by Marathon because Marathon failed to honor a customary price differential established in a 1970 supply contract. The DOE rejected this argument on the ground that Township had not shown that the refiner price rules required Marathon to maintain that discount. The DOE therefore analyzed Township's eligibility for a volumetric refund. Since Township's banks showed that the firm recouped all increased product costs up to February 1980, the DOE only considered Township for a refund from that month through the end of the consent order period. Applying the small claims presumption of injury, the DOE determined that Township should be awarded a refund of $4,077, representing $3,597 in principal and $480 in interest.

Porter Farms, et al., 12/15/87, RF272-3448, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 31 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the DOE. The sum of the refunds granted in this Decision is $620. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Standard Oil Co. (Indiana)/Michigan, et. al., 12/18/87, RF251-396, et. al.

The DOE issued a Decision and Order approving the second-stage refund applications submitted by the State of Michigan in the Standard Oil Co. (Indiana), Vickers Energy Corp., Coline Gasoline Corp., National Helium Corp., and Perry Gas Processors, Inc. refund proceedings. Michigan will use $3,992,305 for a traffic signal synchronization project and for a ridesharing program. The first program will support the implementation of traffic signal synchronization in 15 cities located throughout the State. The second program will promote carpools, vanpools, and public transportation services in the State. An additional $17,073 will be set aside for distribution upon approval of plans filed by State Indian organizations. In evaluating the programs, the DOE determined that they were restitutionary and would promote energy conservation.

Standard Oil Co., (Indiana)/Oklahoma, et al., RQ251-401, et al.

The DOE issued a Decision and Order approving the second-stage refund applications submitted by the States of Oklahoma and Arkansas in the Standard Oil Co. (Indiana), Coline Gasoline Corp., National Helium Corp., and OKC Corp. refund proceedings. Oklahoma will use $550,000 for a van transportation service for elderly, low income, and handicapped individuals. Arkansas will use $223,000 for a home energy rating and radon testing system. In evaluating the plans, the DOE found that Oklahoma's plan would benefit injured consumers of petroleum products and conserve energy and that Arkansas' plan would provide home owners and builders with valuable information about home energy efficiency and would therefore also conserve energy.

Suburban Propane Gas Corp./F.H. Whitman Oil Co., Inc., et al., 12/14/87, RF299-17, et al.

The DOE issued a Decision and Order granting twelve Applications for Refund from the Suburban Propane Gas Corporation escrow account filed by retailers and end-users of Suburban propane, butane, and natural gasoline during the period November 1, 1973 through October 31, 1978. Each application elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987). The DOE granted refunds totalling $24,664, representing $22,247 in principal and $2,417 in interest.

Dismissal

The following submission was dismissed:

Name and Case No.

Green Bus Lines, Inc., RF225-9548.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

February 9, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-3485 Filed 2-17-88; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of January 4 Through January 8, 1988

During the week of January 4 through January 8, 1988, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Nuclear Data, Inc., 1/5/88, KFA-0149

Nuclear Data, Inc. filed an Appeal from a partial denial by the Senior Information Officer, Office of Intergovernmental and External Affairs, Albuquerque Operations Office, of a Request for Information which the firm

had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the material requested, which discloses the bid price and other contractual terms offered by an unsuccessful bidder for a government contract, contains confidential commercial information that was properly withheld under Exemption 4.

Remedial Order

R.P. Trading Co., Seldon R. Harris, Estate of Ralph Pedler, 1/6/88, HRO-0231

The DOE issued a Remedial Order to R.P. Trading Company (Trading), the Estate of Seldon R. Harris, and Ralph Pedler. In the Remedial Order, the DOE found that during the period October 1974 through December 1980, Trading committed violations of the crude oil reseller "layering" regulation and the normal business practices and anti-circumvention rules. *See* 10 CFR 212.186, 210.62 and 205.202. Specifically, the DOE found that Trading resold 2,233,007.45 barrels of crude oil at a markup without providing any traditional and historical reseller service. The DOE found that the illegal revenues obtained in these transactions totalled $1,794,946. Finally, the DOE held that Harris and Pedler, as 50 percent owners of Trading and heads of the firm's two offices, both controlled and participated in the firm's activities and benefited therefrom. Accordingly, the DOE determined that Harris and Pedler were personally liable for the illegal revenues.

Request for Exception

Harvin Petroleum Co., Inc., 1/7/88, KEE-0154

Harvin Petroleum Co., Inc. (Harvin) filed an Application for Exception from the requirement that it file Form EIA-728B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the Application, the DOE found that Harvin's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Refund Applications

Dairymen, Inc., 1/6/88, RF270-1513, RF272-0160

The DOE issued a Decision and Order denying Dairymen, Inc.'s Application for Refund in the Crude Oil Subpart V proceeding and reinstating its Application for Refund from the Surface Transporters Escrow. Dairymen, Inc. tried to obtain a refund in the Subpart V proceeding by arguing that the waiver and release which its Middle Atlantic Division filed in the Surface Transporters Escrow, prior to Dairymen's Subpart V application, did not bind the entire company. The DOE relied on its precedents which held that companies which file applications for M.D.L. 378 escrows and their parents, subsidies, affiliates, successors and assigns are bound by the waiver and release language contained in those applications, and are thus precluded from receiving crude oil refunds in the Subpart V proceeding. Dairymen, Inc. was permitted to supplement its original Surface Transporter claim with corporate-wide gallonage figures used for Surface Transportation purposes. The DOE approved a refund based on a volume of 56,510,568 gallons.

Eugene Dahm, et al., 1/6/88, RF272-1431, et al.

The Office of Hearings and Appeals (OHA) of the DOE issued a Decision and Order approving the Applications for Refunds submitted by 50 claimants from crude oil overcharge funds collected by the DOE. OHA found that the claimants, all end-users, met the eligibility requirements by supplying their actual or estimated purchased volume information for their agricultural activities. The OHA granted the claimants a total refund amount of $1,342 based on 6,718,268 gallons of refined petroleum products purchase from August 19, 1973 through January 27, 1981.

GCO Minerals Co./Getty Oil Co., 1/7/88, RF254-2

The DOE issued a Decision and Order granting the Application for Refund filed by Getty Oil Company in accordance with the procedures outlined in *GCO Minerals Company*, 14 DOE ¶ 85,142 (1986). Because the applicant elected to limit its refund to $5,000, it was presumed to have been injured by GCO's alleged overcharges. After examining the application and supporting documentation, the DOE determined that Getty was eligible to receive a refund totaling $6,044 ($5,000 in principal plus $1,044 in accrued interested).

Getty Oil Co./J & E Service Station, Inc., et al., 1/6/88, RF265-1005, et al.

The DOE issued a Decision and Order concerning 19 Applications for Refund filed by resellers or retailers or products covered by a Consent Order that the DOE entered into the Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. All of the applicants elected to limit their claims on the basis of the percentage presumptions of injury methodology and were eligible for a claim below the $50,000 threshold. The sum of the refunds approved in this Decision is $135,213, representing $66,991 in principal and $68,222 in accrued interest.

Request for Exception

Harvin Petroleum Co., Inc., 1/7/88, KEE-0154

Harvin Petroleum Co., Inc., (Harvin) filed an Application for Exception from the requirement that it file Form EIA-728B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the Application, the DOE found that Harvin's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Johnson Agriprises, Inc., et al., 1/7/88, RF272-812, et al.

The DOE issued a Decision and Order granting 34 Applications for Refund filed in connection with the Subprint V crude oil refund proceeding. Each applicant purchased refined petroleum products during the period August 19, 1973 through January 27, 1981, and used the products for various agricultural activities. Each applicant determined the volume of its fuel purchases by summing its refined petroleum purchases listed in its tax records, fuel supplier records, receipt, and/or other contemporaneous records. As an end-user, each applicant was entitled to receive a refund of its full volumetric share. The sum of the refunds granted in this Decision is $839.

Kempley Farms, et al., 1/7/88, RF270-1501, et al.

The Office of Hearings and Appeals (OHA) of the DOE issued a Decision and Order approving the Applications for Refunds submitted by 35 claimants from crude oil overcharge funds collected by the DOE. The OHA found that the claimants, all end-users, met the eligibility requirements by supplying actual or estimated purchase volume information for their agricultural activities. The OHA granted the claimants a total refund amount of $935 based on 4,656,722 gallons of refined petroleum products purchased from August 19, 1973 through January 27, 1981.

Martin Oil Service, Inc./AMOCO Corp., Koch Refining Co., 1/7/88, RF240-13, RF240-1

The DOE issued a Decision granting an Application for Refund and a Motion for Reconsideration in the Martin Oil Service special refund proceeding. Each applicant resold motor gasoline and sought a refund greater than the $5,000

small claims threshold level. Amoco submitted all the necessary information in support of its claim and was granted the maximum refund allocable to it pursuant to the *Martin* Decision. Koch submitted additional information in support of its Motion for Reconsideration of a prior determination, and was granted an additional refund. The total amount of refunds approved in this determination is $94,310.

Pacific Northern Oil Co./Jack's Auto Parts Inc., Fletcher Oil Co., 1/6/88, RF301-1, RF301-2

The DOE issued a Decision and Order granting two Applications for Refund filed in the Pacific Northern Oil Company, Inc. (*Panoco*) special refund proceeding. *Pacific Northern Oil Company*, 16 DOE ¶ 85,128 (1987)(Panoco). Jack's Auto Parts, Inc. was a retailer of Panoco motor gasoline whose ERA-allocated share of the Panoco Consent Order funds was less than $5,000. It was therefore presumed to have been injured under the retailer small claims presumption. Fletcher Oil Company was a reseller-retailer of Panoco motor gasoline whose ERA-allocated share of the Panoco settlement was in excess of the small claims level. To receive its entire potential refund amount, Fletcher demonstrated injury in accordance with the procedures outlined in *Panoco*. After examining the applicants and supporting documentation submitted by the claimants, the DOE concluded that applications should receive refunds totaling $17,817, representing $12,251 in principal and $5,566 in interest.

Robert Andrew, et al., 1/6/88, RF272-779, et al.

In this Decision and Order, the OHA granted crude oil refunds to 31 refund applicants, pursuant to current DOE policy. Since all of the applicants were determined to be end-users of petroleum products, whose businesses were not subject to DOE regulations, their claims were granted without proof of injury. The total amount of refund approved in this Decision and Order was $1,102, for a total petroleum consumption of 5,516,330 gallons.

Roger E. Grabau, et al., 1/6/88, RF272-2019, et al.

The DOE issued a Decision approving twenty-seven Applications for Refund in the Crude Oil Subpart V refund proceedings. The twenty-seven claimants were farmers who used the USDA formula to derive the number of gallons of petroleum products they used during the August 1973 to January 1981 period. Because the claimants relied on the end-user presumption, they were not required to demonstrate injury. A total of $718 was approved in this Decision and Order.

Suburban Propane Gas Corp./Hope Valley Dyeing Corp., 1/6/88, RF299-8

The DOE issued a Decision granting an Application for Refund from the Suburban Propane Gas Corporation escrow account filed by Hope Valley Dyeing Corp., an end-user of Suburban propane during the period November 1, 1973 through October 31, 1978. The applicant elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987). The DOE granted Hope Valley Dyeing Corp. a refund of $317 ($286 principal plus $31 interest).

Suburban Propane Gas Corp./Hope Valley Dyeing Corp., 1/6/88, RF299-8

The DOE issued a Decision granting an Application for Refund from the Suburban Propane Gas Corporation escrow account filed by Hope Valley Dyeing Corp., and end-user of Suburban propane during the period November 1, 1973 through October 31, 1978. The applicant elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987). The DOE granted Hope Valley Dyeing Corp. a refund of $317 ($286 principal plus $31 interest).

Tenneco Oil Co./Spartan Oil Co., Walter Corp., 1/6/88, RF7-146, RF7-158

The DOE issued a Decision granting Applications for Refund from the Tenneco Consent Order fund to Spartan Oil Company and Jim Walter Corporation. Spartan's claim was limited to the threshold amount of 600,000 gallons per year for each year of the Tenneco Consent Order period. Jim Walter was an end-user of Tenneco products during the Consent Order period and therefore, was not required to prove injury. However, because the corporation claimed a refund for products that were decontrolled, its claim was limited to the gallons of covered product it purchased. The total amount of refunds approved in this Decision and Order was $4,355, representing $3,513 in principal and $842 in interest.

Water Works Supplies, Inc., 1/6/88, RF272-3441

The DOE issued a Decision and Order granting an Application for Refund from crude oil overcharge funds based on the Applicant's purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The Applicant estimated the volume of its fuel purchases by dividing its actual annual fuel expenditures by corresponding per gallon prices. These prices appear in the text of the Decision. The refund granted in this Decision is $50.

DISMISSALS

[The following submissions were dismissed]

Name	Case No.
Arlington Disposal Corp	RF225-10496, RF225-10497, and RF225-10498.
Carl Sperling	KFA-0152.
Ronald Stacker	RF272-10525.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

February 9, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-3486 Filed 2-17-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00255; FRL-3329-9]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory panel (SAP) to review a set of scientific issues being considered by the Agency in connection with Proposed Criteria for Establishing a Class of Pesticide Active Ingredients of Lower Priority for Preparation of Registration Standards; a set of scientific issues being considered by the Agency on a Proposed Rule for Worker Protection Standards for Agricultural Pesticides; a set of scientific issues being considered by the Agency in connection with the peer review classification of: Bifenthrin (Talstaf) as a Class C oncogen; Clofentezine (Apollo) as a Class C

oncogen; Haloxyfop methyl (Verdict) as a Class C oncogen; Propazine as a Class C oncogen; and Propiconazole (Banner/Tilt) as a Class C oncogen.

DATES: The meeting will be held on Wednesday, March 2, 1988 from 8:30 a.m. to 3:30 p.m.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail:

Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-769C), 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1121, Crystal Mall Building No. 2, Arlington, VA, (703-557-7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

1. Review a set of scientific issues in connection with the Agency's Criteria for Establishing a Class of Pesticide Ingredients of Lower Priority for Preparation of Registration Standards. The Agency has proposed that certain pesticide active ingredients be categorized as low priority for Registration Standard preparation in order to allocate more efficiently the resources assigned to the reregistration program.

2. Review of a set of scientific issues in connection with the Agency's proposed rulemaking for "Worker Protection Standards for Agricultural Pesticides." The Agency is requesting comments from the Panel on three major issues: comments on the use of acute toxicity data and chemical class to establish reentry intervals, comments on the exposure trigger for initiating cholinesterase monitoring, and comments or suggestions on the proposed content of the guidelines.

3. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Bifenthrin as a Class C oncogen (possible human carcinogen). The classification of Bifenthrin was based on an increased incidence of leiomyosarcomas of the urinary bladder in male mice, an increased incidence of combined hepatocellular adenomas and adenocarcinomas also in male mice and an increased incidence of combined bronchioalveolar adenomas and adenocarcinomas in female mice.

4. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Clofentezine (Apollo) as a Class C oncogen (possible human carcinogen). The classification of Clofentezine as a Class C oncogen was based on the incidence of follicular cell tumors in the thyroid glands of male rats.

5. Review of a set of scientific issues in connection with the Agency's classification of the peer review of Haloxyfop methyl as a Class C oncogen (possible human carcingen). The classification of Haloxyfop methyl as a Class C oncogen was based on significant increases in benign and malignant liver tumors in male and female mice, and a strong structure activity relationship with other biphenyl ether herbicides.

6. Review of scientific issues in connection with the Agency's peer review of Propazine as a Class C Oncogen based on significant increases in benign and malignant mammary tumors in the female rat, some positive mutagenicity assays and a strong structure activity relationship with other s-triazines.

7. Review of scientific issues in connection with the Agency's peer review of Propiconazole as a Class C based on an increased incidence of combined liver adenomas and carcinomas in male mice.

8. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of documents relating to items 1-7 may be obtained by contacting: By mail:

Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway Arlington, VA. (703-557-2805).

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or telephone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral and/or written statements should notify the Executive Secretary and submit ten copies of a summary no later than February 24, 1988, in order to ensure appropriate consideration by the Panel.

Dated: February 11, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-3433 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180756; FRL-3329-6]

Receipt of Applications for Emergency Exemptions From Washington, Oregon, and Idaho To Use Dinoseb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: EPA has received specific exemption requests from the Washington, Oregon, and Idaho Departments of Agriculture (hereafter referred to as "Washington," "Oregon," "Idaho," or collectively as "Applicants") to use the pesticide dinoseb (CAS 88-85-7) on peas (dry and green), chickpeas, and lentils to control broadleaf weeds. In accordance with 40 CFR 166.24, EPA is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemptions.

DATE: Comments must be received on or before March 4, 1988.

ADDRESS: Three copies of written comments, bearing the identification

notation "OPP-180756," should be submitted by mail to:

Information Services Section, Program Management and Support Division TS-757C), office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7700).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State or Federal agency from any provision of FIFRA if he determines that emergency conditions exist which require such exemption. The applicable EPA regulations for emergency exemptions are set forth at 40 CFR Part 166.

The Departments of Agriculture for the states of Oregon, Washington, and Idaho, by letters received January 5, 11, and 13, 1988, respectively, have requested the Administrator to issue specific exemptions for the use of dinoseb on peas (dry and green), chickpeas, and lentils to control broadleaf weeds.

On October 7, 1986, EPA suspended all registrations of dinoseb products (51 FR 36634, October 14, 1986). The basis for the suspension of all dinoseb registrations was significant risk of developmental toxicity and other adverse health effects to applicators and other populations exposed to dinoseb.

Subsequently, four registrants submitted requests for an expedited suspension hearing on the question of whether or not sale, distribution, or use of dinoseb would pose an imminent hazard during the time required to conduct a cancellation hearing. These registrants withdrew their expedited hearing requests on the question of imminent hazard on October 30, 1986, resulting in the immediate entry, pursuant to the terms of the Agency's October 7 decision, of a final order suspending the registrations of their dinoseb products during the pendency of the cancellation hearing. The Applicants' specific exemption requests are therefore subject to EPA's Subpart D regulations, 40 CFR 164.130 to 164.133, in addition to the regulations at 40 CFR Part 166 governing the issuance of exemptions under section 18. Subpart D provides that any application under section 18 for use of a pesticide that has been suspended or cancelled shall be considered a petition for reconsideration of the prior suspension or cancellation order. The Administrator will determine that reconsideration is warranted if, among other things, he finds that the Applicant has presented substantial new evidence which may materially affect the prior suspension or cancellation order (40 CFR 164.131(c)). If the Administrator finds that the substantial new evidence test in 40 CFR 164.131 is met, the Subpart D rules require a formal hearing to determine whether a modification of the suspension or cancellation order is justified (40 CFR 164.131(c)).

In 1987 the Administrator granted requests for a hearing under Subpart D of 40 CFR Part 164 to reconsider his October 7, 1986, Suspension Order as it applied to the use of dinoseb on dry peas, chickpeas, and lentils in Washington, Oregon, and Idaho. Subpart D hearings were held and, based on these hearings and the recommendations of the Administrative Law Judge, the Administrator decided to modify his October 7, 1986, Suspension Order to allow emergency exemptions to be granted under FIFRA section 18 to the states of Washington, Idaho, and Oregon during 1987. The Agency authorized specific Exemptions for use of dinoseb on dry peas, chickpeas, and lentils on April 1, 1987, to Washington and Idaho, and April 16, 1987, to Oregon. These exemptions were subject to the terms of the Administrator's order and 40 CFR Part 166. These exemptions all expired July 15, 1987.

Washington's 1987 request was for use of dinoseb on peas (this includes dry and green peas); however, the application did not include substantial new evidence concerning the green pea use beyond that available to the Agency at the time of the final suspension decision, and the Administrator did not include green peas in the Subpart D hearing (52 FR 4965 n.1).

II. Emergency Condition

The Applicants state that there is no federally registered preemergent herbicide suitable for broadleaf weed control on lentils and make the following additional assertions. Metribuzin is registered for pre-emergence application for suppression of certain broadleaf weeds; however, according to the Applicants, a serious gap in weed control exists, since metribuzin does not control the entire broadleaf spectrum found in the lentil growing areas and certain weed species can escape control to compete with pea, lentil and chickpea seedlings. Additionally, metribuzin is registered at low application rates in order to prevent crop injury and cannot be used on light soils, clay knobs, or shallow seeding conditions. Fluchoralin (Basalin), MCPA, and trifluralin (Treflan) are registered alternatives for some uses. Basalin does not control problem broadleaf weeds which occur in lentils and generally must be applied in combination with other herbicides for broadleaf weed control on peas. Trifluralin is primarily effective against grass species and requires incorporation. MCPA is approved only for use on peas and must be applied after peas are four to six inches tall, after problem broadleaf weeds have had an opportunity to germinate and compete with seedlings. According to Washington, cultivation practices cannot provide effective weed control during germination and early seedling growth stages. In addition, (1) equipment costs to perform the change would be prohibitive; (2) benefits of grassy weed control from the closed crop canopy would be lost; and (3) the rolling hills in large areas of eastern Washington are difficult to cultivate and are vulnerable to severe erosion.

Idaho estimates a 25% to 30% yield loss for peas (dry and green), a 35% to 40% yield loss for lentils, and a 50% yield loss for chickpeas if dinoseb is not available to control broadleaf weeds. Washington estimates an average 31% yield loss for peas (dry and green), 37% yield loss for lentils, and a 50% yield loss for chickpeas if dinoseb is not

available to control broadleaf weeds. Oregon estimates an average 25% to 100% yield loss for peas (dry and green), 35% to 40% yield loss for lentils, and a 50% yield loss for chickpeas if dinoseb is not available to control broadleaf weeds.

Washington indicates that resulting losses are estimated to be approximately $33 million per year to the producers of peas (dry and green), lentils and chickpeas. Idaho estimates losses of $2.0 million to dry pea growers, $2.6 million to lentil growers, and $1.3 million to chickpea growers. Oregon estimates losses of $1.5 million to dry pea growers, $7,920 to lentil growers, and $127,000 to chickpea growers.

III. Proposed Use

The Applicants request an emergency exemption for peas (dry and green), lentils, and chick peas from March 1 through July 15, 1988.

The proposed specific exemption programs involve a single, pre-emergence application of dinoseb at 3 lbs active ingredient per acre to peas (dry and green) and chickpeas and 1.5 lbs active ingredients to lentils. Dinoseb would be mixed in 20 to 30 gallons of water and applied by ground equipment for broadleaf weed control. Registered dinoseb products containing three pounds of dinoseb amine per gallon as the active ingredient would be used. A total of 72,750 lbs active ingredient to treat 100 acres of lentils, 23,000 acres of peas (dry and green), and 1,100 acres of chickpeas has been requested by Oregon. Idaho has requested a total of 277,500 lbs active ingredient to treat 45,000 acres of lentils, 62,000 acres of peas (dry and green), and 8,000 acres of chickpeas. Washington has requested 840,000 lbs active ingredient to treat 280,000 acres of peas (dry and green), lentils and chickpeas. Other conditions of use include: (1) All applications would be made by licensed commercial applicators or certified private applicators using their own equipment; (2) closed mixing systems would be required and enclosed cabs for all application equipment; (3) applicators would be required to wear protective clothing while mixing, loading, applying dinoseb, or repairing application equipment; (4) field flagging during aerial application would be prohibited; and (5) hand-held spray applications would be prohibited.

IV. Notification and Comment

This notice does not constitute a decision by the Agency on the applications submitted. The Agency's final decision on the specific exemption requests from Washington, Oregon, and Idaho for use of dinoseb on dry peas, chickpeas, and lentils will be based on compliance with the regulations governing section 18. The Agency's final decision on the specific exemption requests for use of dinoseb on green peas will be based on whether or not there is sufficient new information to open Subpart D hearings and, if so, the outcome of the Subpart D hearings and compliance with the regulations governing section 18.

The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application that proposes any emergency use of a pesticide if such pesticide was the subject of a suspension notice under section 6(c) of FIFRA. The regulations also provide for the opportunity for public comment on the applications (40 CFR 166.24).

A comment period of 15 days is provided to facilitate decision-making on the specific exemption requests. Accordingly, interested persons may submit written views on the applications for emergency exemption to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period.

Dated: January 29, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-3434 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180757; FRL-3329-5]

Receipt of Application for a Specific Exemption To Use Thiophanate-Methyl; Solicitation for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") for use of thiophanate-methyl (CAS 23564-05-8) to control white mold, *Sclerotinia sclerotiorum*, on 5,000 acres of potatoes in Florida. In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before March 4, 1988.

ADDRESS: Three copies of written comments, bearing the identifying notation "OOP-180757," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordnace with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Libby Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue an emergency exemption to permit the use of the fungicide, thiophanate-methyl available as Topsin M 70% WP (EPA Registration No. 4581-322) and Topsin M 4.5 F1 (EPA Registration 4581-352) from Penwalt Corp., to control *Sclerotinia* infections on 5,000 acres of potatoes in Florida.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant indicates that prior to 1971, potato growers were using calcium cyanamide to control *Sclerotinia*, but this product is no longer available. According to the Applicant, without effective control, potato growers could experience 34 percent crop losses.

With the use of the Topsin M, growers expect their crop losses to be at most 5 percent. The potential dollar loss without thiophanate-methyl for the 1987–99 season is estimated to be approximately four million dollars.

Topsin M will be applied at a maximum rate of 1.4 pounds active ingredient per acre. Up to two applications may be made. A maximum of 10,000 pounds active ingredient will be needed to treat a maximum of 5,000 acres. Applications will be completed by March 31, 1988.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which is or has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been the subject of the Special Review (40 CFR 166.24(a)(5)). A rebuttable presumption against registration (RPAR) for thiophanate-methyl was published December 7, 1977 (42 FR 61970). The risk considered in that document which could be similar to the risks posed by this proposed use are: Mutagenicity; and reduction to nontarget organisms. Thiophanate-methyl was removed from the special review process on October 20, 1982 (47 FR 46747) because it was determined that the potential risks were not unreasonable and were exceeded by the benefits associated with its use. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: February 3, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88–3435 Filed 2–17–88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240079; FRL-3329-7]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 19 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen F. Beeder, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC

Office location and telephone number: Room 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–7893.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in October through December 1987. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arizona

EPA SLN No. AZ 87 0019. Rohm and Haas Co. Registration is for Dithane M–22 Special to be used on Chinese cabbage to control downey mildew. November 12, 1987.

EPA SLN No. AZ 87 0021. Rhone-Poulenc Ag. Co. Registration is for Ethrel Plant Regulator to be used on peppers as a plant regulator. October 29, 1987.

California

EPA SLN No. CA 87 0038. Humboldt County Agricultural Commissioner. Registration is for Karmex (Diuron) to be used on dormant iris and narcissi bulbs to control winter annual broadleaf weeds. October 10, 1987.

EPA SLN No. CA 87 0064. Humboldt County Agricultural Commissioner. Registration is for Orthene (Acephate) to be used on daffodils, irises, and lilies to control aphids alstroemeria. October 21, 1987.

EPA SLN No. CA 87 0068. Bodger Seed Co. Registration is for Lorox DF Herbicide to be used on marigolds grown for seed to control various weeds. October 15, 1987.

EPA SLN No. CA 87 0069. Pacific Bulb Growers Association. Registration is for Clean Crop Rampart 10–G to be used on field-grown lilies to control aphids. October 14, 1987.

EPA SLN No. CA 87 0070. Agricultural Commissioner of Stanislaus County. Registration is for Champion Wettable Powder to be used on celeriac to control early blight, late blight, and bacterial blight. October 21, 1987.

EPA SLN No. CA 87 0072. Royal Sluis, Inc. Registration is for Clean Crop Dimethoate 276 EC Systemic Insecticide to be used on broccoli and cauliflower grown for seen in greenhouses to control aphids. November 2, 1987.

EPA SLN No. CA 87 0073. Humboldt County Agricultural Commissioner. Registration is for Vydate L (Oxamyl) to be used on daffodils and lilies (bulbs and cut flowers) to control nematodes. December 8, 1987.

EPA SLN No. CA 87 0074. Royal Sluis Industries. Registration is for Orthene 75S Soluble Powder to be used on lettuce grown for seed in greenhouses to control aphids. November 3, 1987.

EPA SLN No. CA 87 0075. Jackson & Perkins Co. Registration is for Physan 20 to be used on rose, crape myrtle, and lilac cuttings for propagation to control crown gall. November 2, 1987.

EPA SLN No. CA 87 0076. S.H. Merwin & Sons. Registration is for Diquat Herbicide N/A to be used on dichondria grown for seed for desiccation in preparation for harvest. November 6, 1987.

EPA SLN No. CA 87 0077. Imperial Irrigation District. Registration is for Dalapon 85 to be used on irrigation district canals to control phragmites, cattails, and canes. November 2, 1987.

EPA SLN No. CA 87 0078. Santa Barbara County Agricultural Commissioner. Registration is for Kerb 50–W to be used on direct-seeded artichokes to control stinging nettle and wild oats. November 6, 1987.

EPA SLN No. CA 87 0079. Fermenta Plant Protection Co. Registration is for Daconil 2787 Flowable Fungicide to be used on perennial ornamentals to control botrytis blight, stagonospora leaf scorch, and ink spot. November 9, 1987.

EPA SLN No. CA 87 0080. Humboldt County Agricultural Commissioner. Registration is for Poast to be used on field-grown daffodils and lilies to control annual rye and wild oats. October 12, 1987.

Connecticut

EPA SLN No. CT 87 0002. Champar, A Division of Lipha Chemicals, Inc. Registration is for Rozol Laq-Berry for Vole Control to be used on orchards to control voles. December 17, 1987.

Florida

EPA SLN No. FL 87 0017. The Land, EPCOT Center. Registration is for Resmethrin EC 26 to be used on nonfood-consumption crops to control various household and greenhouse crawling and/or flying insects. October 2, 1987.

EPA SLN No. FL 87 0018. The Land, EPCOT Center. Registration is for Talstar 10 WP to be used on nonfood consumption crops to control aphids, whiteflies, mealybugs, two-spotted spider mites, leafrollers, and armyworms. November 2, 1987.

EPA SPN No. FL 87 0019. Dow Chemical U.S.A. Registration is for Telone II Soil Fumigant to be used on peanuts to control nematodes. December 22, 1987.

EPA SLN No. FL 0020. Southern Mill Products Co., Inc. Registration is for Dursban Cricket and Asian Roach Bait to be used on lawns, golf courses, and ornamental turf to control Asian and dendroblatta cockroaches. December 23, 1987.

EPA SLN No. FL 87 0021. Chevron Chemical Co. Registration is for Orthene 75 S Soluble Powder to be used on Southern pine seed orchards to control slash pine flower thrips, coneworms, coneborers, and seedbugs. December 23, 1987.

Hawaii

EPA SLN No. HI 87 0007. Dole Packaged Foods. Registration is for Clean Crop Thiolux Dry Flowable Micronized Wettable Sulfur to be used on pineapple to control mites. October 29, 1987.

EPA SLN No. HI 87 0008. Dole Packaged Foods. Registration is for Thiolux Dry Flowable Micronized Wettable Sulfur to be used on pineapple to control mites. October 29, 1987.

EPA SLN No. HI 87 0009. ICI Americas, Inc. Registration is for Gramnoxone Super Herbicide to be used on macadamia nuts to control woody weeds, green suckers, late-germinating weeds, and grasses. October 21, 1987.

EPA SLN No. HI 87 0010. Dow Chemical Co. Registration is for Thordan 22K Weed Killer to be used on rangeland and permanent grass pastures to control certain woody plants. December 10, 1987.

Idaho

EPA SLN No. ID 87 0020. Gustafson, Inc. Registration is for Gustafson Flo-Pro IMZ Systematic Fungicide to be used on sweet corn to control seedborne *Penicillium*. November 17, 1987.

EPA SLN No. ID 87 0022. Hopkins Agricultural Chemical Co. Registration is for Ramik Brown to be used on bearing and nonbearing fruit tree orchards to control mice. November 17, 1987.

EPA SLN No. ID 87 0023. Mobay Corp. Registration is for Bayletron 50% WP to be used on bearing and nonbearing fruit tree orchards to control mice. November 17, 1987.

Missouri

EPA SLN No. MO 87 0006. Chevron Chemical Co. Registration is for Ortho Diquat Herbicide H/A to be used on potatoes for desiccation of plants to facilitate harvest. November 13, 1987.

Montana

EPA SLN No. MT 87 0006. Chevron Chemical Co. Registration is for Ortho Diquat Herbicide H/A to be used on potatoes for desiccation of plants to facilitate harvest. October 1, 1987.

Nebraska

EPA SLN No. NE 87 0005. FMC Corp. Registration is for Command 4EC to be used on fallow land to control various annual grasses and broadleaf weeds. August 14, 1987.

EPA SLN No. NE 87 0006. Chevron Chemical Co. Registration is for Ortho Diquat herbicide H/A to be used on potatoes for desiccation of plants to facilitate harvest. August 13, 1987.

EPA SLN No. NE 87 0007. Asarco, Inc. Registration is for Sulfuric Acid Desiccant to be used on various crops as desiccant for control of potato vines. August 24, 1987.

EPA SLN No. NE 87 0009. International Development and Licensing Corp. Registration is for War Paint™ to be used on dairy and beef cattle to control face flies and horn flies. October 22, 1987.

EPA SLN No. NE 87 0010. International Development and Licensing Corp. Registration is for Black Tag™ to be used on dairy and beef cattle to control face flies and horn flies. October 22, 1987.

Nevada

EPA SLN No. NV 87 0011. ICI Americas, Inc. Registration is for Gramoxone Super Herbicide to be used on alfalfa grown for seed to control broadleaf weeds and grasses. November 13, 1987.

New Jersey

EPA SLN No. NJ 87 0005. NJ Dept. of Agriculture. Registration is for Menthol to be used on honey bee colonies to control tracheal mites. November 16, 1987.

North Dakota

EPA SLN No. ND 87 0012. Unocal Chemical Division, Unocal Corp. Registration is for Enquick Desiccant to be used on potato vines for use as a desiccant. September 2, 1987.

Oklahoma

EPA SLN No. OK 87 0004. Coopers Animal Health, Inc. Registration is for Tomahawk™ Insecticide Ear Tags to be used on beef and nonlactating dairy cattle to control flies. December 23, 1987.

Oregon

EPA SLN No. OR 87 0013. Wilbur Ellis Co. Registration is for Wilbur-Ellis Diazinon 14G to be used on cranberries to control cranberry girdler. October 2, 1987.

EPA SLN No. OR 87 0014. Fermenta Plant Protection Co. Registration is for Daconil 2787 Flowable Fungicide to be used on various greenhouse-grown flowers to control botrytis blight, stagonospora leaf scorch, and ink spot. November 2, 1987.

EPA SLN No. OR 87 0015. Stauffer Chemical Co. Registration is for Imidan 50-WP to be used on sweet cherries to control syneta beetles. November 3, 1987.

EPA SLN No. OR 87 0016. Hoechst-Roussel Agri-Vet Co. Registration is for Horizon™ IEC Herbicide to be used on sod farms, commercial and residential turf, and rights-of-way to control turf-grass. October 16, 1987.

Tennessee

EPA SLN No. TN 87 0011. FMC Corp. Registration is for Furadan 4F Insecticide/Nematocide to be used on alfalfa to control clover roots, curculio, pototo leafhoppers, crickets, and grasshoppers. October 30, 1987.

EPA SLN No. TN 87 0012. FMC Corp. Registration is for Furadan 15G to be used on alfalfa to control clover root curculio, potato leafhoppers, crickets, and grasshoppers. October 30, 1987.

EPA SLN No. TN 87 0013. Coopers Animal Health, Inc. Registration is for Tomahawk™ Insecticide Ear Tags to be used on beef and nonlactating dairy

cattle and calves to control horn flies. November 16, 1987.

EPA SLN No. TN 87 0014. Chevron Chemical Co. Registration is for Orthene Tobacco to be used on burley tobacco to control flea beetles and green peach aphid cutworms. December 2, 1987.

EPA SLN No. TN 87 0015. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide to be used on tobacco plant beds to control blue mold. December 2, 1987.

Texas

EPA SLN No. TX 87 0005. Micro-Flow Co. Registration is for Zines 75WP to be used on mushrooms to control verticillium. December 14, 1987.

Utah

EPA SLN No. UT 87 0006. Hopkins Agricultural Chemical Co. Registration is for Ramik Brown to be used on buildings and other protected areas to control rats and mice. November 2, 1987.

Virginia

EPA SLN No. VA 87 0009. Mobay Corp. Registration is for Furadan 15G to be used on pure seeded alfalfa to control alfalfa blotch leafminers, potato leafhoppers, white grubs, and Japanese beetles. November 12, 1987.

Washington

EPA SLN No. WA 87 0042. Platte Chemical Co. Registration is for Clean Crop, Phosphamidon 8 Spray to be used on apples to control aphids and leafhoppers. October 8, 1987.

EPA SLN No. WA 87 0043. Fermenta Plant Protection Co. Registration is for Daconil 2787 Flowable Fungicide to be used on bulbing perennial ornamentals to control botrytis blight, stagonospora leaf scorch, and ink spot. October 27, 1987.

EPA SLN No. WA 87 0044. Oregon-California Chemicals, Inc. Registration is for ZIRAM-400 to be used on apples and pears to control bull's eye rot, antracnose, and European canker. November 3, 1987.

(Sec. 24 as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: February 4, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-3436 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3329-4]

Privacy Act of 1974; Systems of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Privacy Act of 1974; proposed new system of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a), EPA is proposing to establish and maintain a system of records. This system is "EPA Credential Information Records." Information in the system will be used to prepare credentials for designated officers and employees who perform official enforcement, inspection, and investigative functions. The information will also be maintained as a record of all holders of credentials, for renewal and recovery of expired credentials and to identify lost or stolen credentials. The system is composed of two parts: (1) Records pertaining to credentials issued by the Office of the Inspector General to their employees requiring credentials and (2) records pertaining to credentials issued by the Security and Property Management Branch to other employees requiring credentials.

EFFECTIVE DATE: The Environmental Protection Agency is requesting a waiver from the Office of Management and Budget of its sixty-day advance review period. If the Office of Management and Budget grants the waiver, this system shall become established formally thirty days after publication unless EPA receives comments which would result in a contrary determination.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Office of Inspector General credential records: Tom Maloney, Office of Inspector General, Office of Management and Technical Assessment (A-109), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-4912.

All other credential records: Arthur Flaks, Chief, Security and Property Management Branch, Facilities Management and Services Division (PM-215), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-2110.

Dated: November 19, 1987.

C. Morgan Kinghorn,

Acting Assistant Administrator for Administration and Resources Management.

EPA-23

SYSTEM NAME:

EPA Credential Information Records—EPA-OIG and FMSD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Inspector General credential records: Office of the Inspector General (A-109), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

All other credential records: Security and Property Management Branch, Facilities Management and Services Division (PM-215), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, and offices listed in Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees who are required to carry credentials that identify the bearer as having the authority to act in an official enforcement, inspection, or investigative capacity.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains all or part of the following information: Name of individual, title, grade, position, location, credential number, expiration date, date issued, status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 486(c), Federal Property and Administrative Services Act of 1949, as amended.

PURPOSE(S):

EPA will use the records to issue official EPA credentials to designated Agency employees who are required to carry credentials to identify them as having the authority to act in an official enforcement, inspection, or investigative capacity. The records will also be used to maintain a record of all holders of credentials, for renewal and recovery of expired credentials, and to identify lost or stolen credentials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of information may be made:

1. To EPA contractors who have been engaged to assist EPA in the performance of activities directly related to this system of records and who need to have access to the records in order to perform under the contract. Contractors are required to maintain the records in accordance with the requirements of the Privacy Act.

2. To a Member of Congress or a congressional office in response to an inquiry from that Member or office made at the request of the individual to whom the record pertains.

3. To a Federal, State or local agency which has requested information relevant to its decision in connection with the hiring or retention of an employee; the reporting of an

investigation on an employee; the letting of a contract; or the issuance of a security clearance, license, grant, or other benefit.

4. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning the hiring or retention of an employee; the letting of a contract; or the issuance of a security clearance, license, grant, or other benefit.

5. To an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order and the information disclosed is relevant to the matter.

6. To the Department of Justice to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency.

7. In a proceeding before a court, other adjudicative body or grand jury, or in an administrative or regulatory proceeding, to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to the proceeding in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency. Such disclosures include those made in the course of presenting evidence, conducting settlement negotiations, and responding to subpoenas and requests for discovery.

8. To representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Records are retrieved by name of the individual on whom they are maintained.

SAFEGUARDS:

Only authorized EPA and contractor employees with an official need-to-know are allowed access to the system. The records are stored in locked cabinets. The cabinets are located in locked rooms in buildings with controlled access.

RETENTION AND DISPOSAL:

Records are destroyed three months after separation or revocation of credential. See General Records Schedule 11, Item 4.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Inspector General credential records: Assistant Inspector General for Management and Technical Assessment (A-109), Office of the Inspector General, 401 M St., SW., Washington, DC 20460.

All other credential records: Chief, Security and Property Management Branch (PM-215), 401 M St., SW., Washington, DC 20460.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the appropriate System Manager in accordance with EPA's regulations at 40 CFR Part 16. Any additional information or requirements will be provided by the System Manager.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Individuals should reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures. The record and the specific information being contested should be identified. The corrective action sought and supporting justification for the correction should be provided by the individual.

RECORD SOURCE CATEGORIES:

Subject individual and office preparing credential.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix

In addition to Headquarters, the Security Coordinator, representing the Security and Property Management Branch, maintains credential records at the following locations:

EPA Region I, Federal Center, Boston, MA 02203
EPA Region II, 26 Federal Plaza, New York, NY 10278
EPA Region III, 841 Chestnut St., Philadelphia, PA 19107
EPA Region IV, 345 Courtland St., N.E., Atlanta, GA 30365
EPA Region V, 230 S. Dearborn St., Chicago, IL 60604
EPA Region VI, 1445 Ross Ave., Dallas, TX 75202
EPA Region VII, 726 Minn. Ave., Kansas City, KS 66101
EPA Region VIII, 999 18th St., Suite 1300, Denver, CO 80202
EPA Region IX, 215 Fremont St., San Francisco, CA 94105
EPA Region X, 1200 6th Ave., Seattle, WA 98101
Office of Administration, 23 W. St. Clair, St., Cincinnati, OH 45268
Environmental Research Laboratory, P.O. Box 15027, Las Vegas, NV 89114
National Enforcement Investigation Center, Bldg. 53, Box 25227, Denver, CO 80225.

[FR Doc. 88-3437 Filed 2-17-88; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59256; FRL-3330-1]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-88-4. The test marketing conditions are described below.

EFFECTIVE DATE: February 5, 1988. Written comments will be received until March 4, 1988.

ADDRESS: Written comments, identified by the document control number "[OPTS-59256]" and the specific TME "[TME-88-4]" should be sent to: Document Control officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Robert Wright, III, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202-382-7800).

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 signficant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-88-4. 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 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 that 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-88-4. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date 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 and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each 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-88-4

Date of Receipt: December 30, 1987.

Close of Review Period: February 12, 1988. The extended comment period will close March 4, 1988.

Applicant: Confidential.

Chemical: (G) Oxime blocked polyurethane polymer, waterborne.

Use: (G) Industrial applications.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: During manufacture, (approximately 2 workers), processing, (approximately 3 workers), and use, (approximately 100 workers), may be exposed dermally to low levels if gloves are not worn. The Material Safety Data Sheet requires workers to wear impervious gloves.

Test Marketing Period: Sixty days, commencing on first day of maufacture.

Risk Assessment: EPA identified no significant environmental concerns. EPA identified potential health concerns for blood effects and neurotoxicity, based on data on an analogous chemical substance. However, EPA believes that any potential health hazards will be mitigated because the substance is not expected to be absorbed through the skin. Therefore, 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 signficant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: February 5, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-3438 Filed 2-17-88; 8:45 am]

BILLING CODE 6560-50-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: 224-010896-001.

Title: Port of Maryland Terminal Agreement.

Parties:

Maryland Port Administration (MPA)
Moller Steamship Company, Inc. (Maersk)

Synopsis: The proposed agreement (1) extends the basic agreement two years to March 1, 1991; (2) increases Maersk's tonnage guarantee; (3) increases vessel calls with new volume incentive discounts; (4) increases acreage rental at Dundalk, and (5) provides special incentives for certain container movements.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 12, 1988.

[FR Doc. 88-3419 Filed 2-17-88; 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.: 203-009735-023.

Title: Steamship Operators Intermodal Committee.

Parties:

American President Lines, Ltd.
Associated Container Transportation (USA)
Atlantic Container Line, Inc.
Barber Lines, A/S

Chilean Line
Columbus Lines, Inc.
Evergreen International Corp.
Farrell Lines, Inc.
Grancolombiana (New York), Inc.
Japan Line (USA), Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Line, Ltd.
Netumar Lines
Nippon Yusen Kaisha
Sea-Land Service, Inc.
Showa Line, Ltd.
Trans Freight Lines, Inc.
Yamashita-Shinnihon Steamship Co., Inc.
Yangming Line
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would add Crowley Maritime Corporation as a party to the agreement. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 12, 1988.

[FR Doc. 88-3420 Filed 2-17-88; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 87-26 et al.]

Transpacific Westbound Rate Agreement and North Europe-U.S. Freight Association Agreement el al.; Loyalty Contracts

In the matter of Docket No. 87-26, Agreement No. 202-010689-027; Transpacific Westbound Rate Agreement-Loyalty Contracts; Docket No. 88-1, Agreement No. 202-000093-040, North Europe-U.S. Pacific Freight Conference Agreement; Agreement No. 202-010270-024, Gulf-European Freight Association Agreement; Agreement No. 202-010656-024, North Europe-U.S. Gulf Freight Association Agreement; Agreement No. 202-010636-028, U.S. Atlantic-North Europe Conference Agreement; Agreement No. 202-010637-025, North Europe-U.S. Atlantic Conference Agreement; Agreement Provisions on Loyalty Contracts; notice and supplemental order.

By Order served January 7, 1988, the Commission instituted Docket No. 88-1 by Order to Show Cause and consolidated this docket with proceedings previously instituted in Docket No. 87-26. Notice of such action was published in the **Federal Register** on January 13, 1988, 53 FR 803.

Subsequent to issuance of the Order of January 7, 1988, four of the conferences named as Respondents in Docket No. 88-1 (a) withdrew the conference agreements made subject to the Commission's Order in Docket No. 88-1 [1], and (b) concurrently with the above action, filed new agreements [2] which (i) restate verbatim the text of the conference agreements as to loyalty contracts just withdrawn, and (ii) suspend these parties' implementation of the stated authority until a future date.

The questions of lawfulness and basis for conference agreements restricting the use of loyalty contracts by individual carrier members, raised in the Order to Show Cause served January 7, 1988, remain at issue in the instant Agreement filed by Respondents.

The procedural schedule previously established shall remain in effect.

Now therefore, it is ordered That Agreement No. 202-010270-026, Gulf-European Freight Association Agreement; Agreement No. 202-010656-026, North Europe-U.S. Gulf Freight Association Agreement; Agreement No. 202-010636-031, U.S. Atlantic-North Europe Conference Agreement; and Agreement No. 202-010637-028, North Europe-U.S. Atlantic Conference Agreement are made subject to proceedings in consolidated Dockets No. 87-26 and 88-1 for purposes of hearing and decision therein. By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-3421 Filed 2-17-88; 8:45 am]

BILLING CODE 6730-01-M

[1] The respective GEFA, NEGFA, ANEC and NEAC Agreements are identified in the caption to Docket No. 88-1.

[2] The newly filed agreements (hereinafter, collectively "the Agreements") are designated as follows:

Agreement No. 202-010270-026, Gulf-European Freight Association Agreement ("GEFA");

Agreement No. 202-010656-026, North Europe-U.S. Gulf Freight Association Agreement ("NEGFA");

Agreement No. 202-010636-031, U.S. Atlantic-North Europe Conference Agreement ("ANEC"); and

Agreement No. 202-010637-028, North Europe-U.S. Atlantic Conference Agreement ("NEAC").

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies; Frederick and Magdalene Liechty

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 9, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Frederick and Magdalene Liechty,* Berne, Indiana; to acquire 12.9 percent of the voting shares of First Berne Financial Corporation, Berne, Indiana, and thereby indirectly acquire First Bank of Berne, Berne, Indiana.

Board of Governors of the Federal Reserve System, February 11, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-3369 Filed 27-17-88; 8:45 am]

BILLING CODE 6210-01-M

Union Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The Companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 9, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104

Marietta Street, NW., Atlanta, Georgia 30303:

1. *Union Bancshares, Inc.*, Blairsville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Union County Bank, Blairsville, Georgia.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Capron Bancorp, Inc.*, Capron, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Capron State Bank, Capron, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 100 percent of the voting shares of Mid America Bancshares, Inc., Wichita, Kansas, and thereby indirectly acquire The Bank of Mid America, Wichita, Kansas.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Thomson Holdings, Inc.*, Centerville, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Centerville, Centerville, South Dakota.

Board of Governors of the Federal Reserve System, February 11, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-3370 Filed 2-17-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Commission on Nursing; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the month of March 1988:

Name: Secretary's Commission on Nursing.

Date: March 4, 1988.

Time: 9:00 am.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Purpose: The Secretary's Commission on Nursing will advise the Secretary of Health and Human Services on how the public and private sectors can work together to address problems and implement solutions regarding the supply of active registered nurses. The Commission will also consider the recruitment and retention of nurses in the U.S. Public Health Service, The Veterans Administration and the Department of Defense. As appropriate for its work, the Commission will consider the findings of studies which are relevant to the development of a multi-year action plan for implementation by the public and private sectors.

Agenda: The agenda for this meeting will include a preliminary analysis of the nature and extent of the current nurse shortage problem, and there will be a panel presentation on issues associated with the demand for nurses. Discussion will also focus on an examination of the preliminary factors contributing to difficulties in nurse recruitment and retention.

Agenda items are subject to change as priorities dictate. Anyone wishing information regarding the Commission should contact the Secretary's Commission on Nursing, Hubert H. Humphrey Building, Room 616E, 200 Independence Avenue, SW., Washington, DC 20201, Telephone (202) 245-0409.

Lillian K. Gibbons,

Executive Director, Secretary's Commission on Nursing.

[FR Doc. 88-3576 Filed 2-17-88; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

Final Funding Preferences for Grants for Geriatric Education Centers

The Health Resources and Services Administration announces the final funding preferences which will be applied among other factors in the distribution of grant awards in Fiscal Year 1988 for Grants for Geriatric Education Centers, section 788(d) of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 788(d) authorizes grants to support the improvement and development of organizational arrangements called Geriatric Education Centers focused on strengthening and coordinating multidisciplinary training in geriatric health care involving several health professions. These centers are established to facilitate training of medical, dental, optometric, pharmacy, podiatric, nursing, and appropriate allied health and public health faculty, students, and practitioners in the diagnosis, treatment, and prevention of diseases and other health problems of the aged.

To be eligible for a grant under section 788(d) of the PHS Act, the applicant must meet the requirements of a health professions school as defined by section 701(4), program for the training of physician assistants as defined in section 701(8) or a school of allied health as defined in section 701(10). Applicants conducting projects to be administered in other types of organizational settings will be considered for geriatric education center grants under section 301 of the PHS Act.

All applicants must be located in the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, or the Federated States of Micronesia.

Functioning within a defined geographic area, which may be a metropolitan area, a State or portion thereof, or an area including all or part of two or more States, a Geriatric Education Center provides the health professions educational community within the area with multidisciplinary services which:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction (other than training and retraining of faculty of schools of medicine and osteopathy);

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Proposed funding preferences were published in the **Federal Register** of November 17, 1987 (FR 43399) for public comment. No comments were received during the 30-day comment period. Listed below are the final funding preferences which will be applied in the distribution of grant awards in Fiscal Year 1988. A funding preference will be given to applications from existing Geriatric Education Centers which have trained substantial numbers of health professions faculty and satisfactorily

address the program priorities listed below Among proposals for new geriatric education centers, preference will be given to applications which satisfactorily address the program priorities addressed below. All applications, however, will be reviewed and given consideration for funding.

(1) Projects which will provide training for faculty from four or more health professions, at least one of which must be allopathic or osteopathic medicine, with respect to the treatment of health problems of the elderly by multidisciplinary teams of health professionals. A retraining program for faculty in schools of medicine and osteopathy in geriatrics or a one-year or two-year internal medicine or family medicine fellowship program as identified in section 788(e)(3) of the Act is not eligible under section 788(d) of the PHS Act and does not qualify for this funding preference.

(2) Projects which currently have or plan to provide for a high degree of areawide collaboration as evidenced by:

(a) Significant multidisciplinary health care educational activities;

(b) Letters of agreement or assurance, among participating entities, such as professional schools, teaching facilities and other clinical sites, professional associations, and State and local health agencies; and

(c) Organization or other arrangements for participation by the social and behavioral science disciplines;

(3) Preference will be given to applicants from institutions that demonstrate a commitment to increase minority participation in their program, show evidence of efforts to recruit minority faculty participants, or demonstrate substantial benefit from the project to disadvantaged population groups in primary medical care manpower shortage area(s) designated under section 332 of the Public Health Service Act.

In determining projects to be funded from among applicants recommended for approval, including those assigned a funding preference, the Secretary, after consultation with the National Advisory Council on Health Professions Education, may give consideration to the geographic location of the project in relation to other Geriatric Education Centers funded or to be funded by this grant program and to regional and areawide needs.

This program is not subject to the provisions of Executive Order 12372 Intergovernmental Review of Federal Programs (as implemented through 45 CFR Part 100).

Dated: February 11, 1988.

John H. Kelso,

Acting Administrator.

[FR Doc. 88-3375 Filed 2-17-88; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Family Violence Prevention and Services

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Notice of the availability of FY 1988 funds for State and Indian Tribal grants for family violence prevention and service.

SUMMARY: FY 1988 funds are now, available for grants to States (including Territories and insular Areas) and Indian Tribes and Tribal organizations to assist in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. This notice sets forth the application process and requirements for these grants.

DATE: Application must be received by April 4, 1988.

ADDRESS: Address applications to: Office of Human Development Services, Office of Policy, Planning and Legislation, Attn: William D. Riley, Room 318-E, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: William D. Riley, (202) 245-2892.

SUPPLEMENTARY INFORMATION:

Background

Title III of the Child Abuse Amendments of 1984 (Pub. L. 98-457, 42 U.S.C. 10401 *et seq.*) is entitled the "Family Violence Prevention and Services Act." The purposes of this legislation are to assist; States in their efforts to prevent family violence; provide immediate shelter and related assistance for victims of family violence and their dependents; and carry out coordination, research, training, technical assistance, and evaluation activities. The Secretary also may make demonstration grants directly to Indian Tribes and Tribal organizations to prevent family violence and provide immediate shelter and related assistance.

During FY 1986 (the first year of implementing the new program) and FY 1987, Family Violence Prevention and Services grants were made to States and Indian Tribes. In general, more than 60 percent of these State grant funds were used to supplement already established community-based family violence prevention and service shelters and other activities. In addition to providing immediate shelter and related assistance, some States used these funds to make grants to local public or non-profit organizations for special projects and services (e.g., family therapy, volunteer utilization for the elderly and disabled, and making shelters accessible to the handicapped). Most States distributed funds in cooperation/consultation with State Family Violence Shelter Director's Associations.

Indian Tribes and Tribal organizational primarily have used these funds to provide immediate shelter and related assistance to victims of family violence.

Reporting Requirements

Program Reports

States and Indian Tribes are reminded that annual program reports are due December 30 of each year. Program report were due December 30, 1987 for FY 1986 funds.

Fiscal Reports

A separate Financial Status Report, Standard Form 269 (Sf-269), is due on an annual basis for each fiscal year award. An SF-269 must be submitted within 90 days after the end of the budget period. If an extension was granted for FY 1986 or FY 1987 funds, a provisional final SF-269 must be submitted 90 days after the end of the budget period. A final SF-269 must be submitted 90 days after the end of the extension. Thus, the SF-269 for FY 1986 funds for the period ending September 30, 1987 was due December 30, 1987.

Expenditure Period

These FY 1988 funds will be available for expenditure by States through September 30, 1989. No extensions of the expenditure period will be granted.

Funds Available

Public Law 100-202, the Continuing Resolution for FY 1988, made $8.138 million available to carry out all activities under the Family Violence Prevention and Services Act. (A total of $8.5 million was awarded in FY 1987.)

Of this amount, the Department will make $6.917 million (85 percent of total funds) available for grants to States (see section 310(b) of the Act). State allocations are listed at the end of this Notice and have been computed based on the formula in section 304. Section

304 also contains a provision for reallotment to other States of any funds not made available to a State because of such State's failure to meet the requirements for a grant.

The Department also has set aside $670,000 for direct grants to Indian Tribes or Tribal organizations.

The remaining funds will be used to carry out the research, evaluation, coordination, training, and clearinghouse activities required by the Act.

Eligibility: States

"States" as defined in section 309(6) of the Act are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the remaining eligible entity previously a part of the Trust Territory of the Pacific Islands—the Republic of Palau. In FY 1986 and FY 1987, Guam and the Commonwealth of the Northern Mariana Islands included family violence funds in their consolidated grant.

Eligibility: Indian Tribes and Tribal Organizations

In FY 1986, Indian tribal eligibility was limited to those Federally recognized Tribes, as defined in section 309(2), that had an already established social services program as evidenced by receipt of "638" contracts for social services with the Bureau of Indian Affairs (BIA). One hundred twenty-six Indian Tribes and Tribal organizations were eligible under this criterion. Sixty-five Indian Tribes received grant awards.

In addition to eligibility based on "638" contracts, in FY 1987 we expanded the eligibility criteria to include Indian Tribes and Tribal organizations who had received FY 1986 grants under the Indian Child Welfare Act from the BIA. The expansion of the eligibility criteria for FY 1987 made 171 Indian Tribes and Tribal organizations eligible. Seventy-four Indian Tribes were awarded family violence prevention grants.

We considered further expansion of Indian tribal eligibility for these FY 1988 grants, but, given the funds available, we have decided to limit Indian tribal eligibility to those Indian Tribes and Tribal organizations which received FY 1987 family violence grants. Should additional funds become available, however, a supplemental announcement will be published. As in previous years, Indian Tribes may apply singly or as a consortium. A list of the eligible Indian Tribes and Tribal organizations is found at the end of this Notice.

Because section 304(a) specifies a minimum base amount for State allocations, we have set a base amount for Indian Tribal allotments. Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population is less than 3,000 will receive a minimum of $3,000; Tribes which meet the application requirements and whose reservation and surrounding Tribal trust lands population exceeds 3,000 will receive a minimum of $8,000, except for the Navajo Tribe which will receive a minimum of $24,000. The Department will use the best available population figures from the Census Bureau. Where Census Bureau data is unavailable we will use figures from the BIA Indian Population and Labor Force Report. If not all eligible Tribes apply, the available funds will be divided among the Tribes which apply and meet the requirements.

Matching Requirements

States and Indian Tribes and Tribal organizations are not required to furnish matching funds, but sub-State grantees must meet the requirements in section 303(f) as follows:

In the first year (FY 1986), if the State gave a sub-State grantee $10,000, the required match was $3,500 or 35 percent of the funds received under this Act. If the same sub-State grantee received $10,000 in the second year (FY 1987), the required match was $5,500 or 55 percent of the funds received under this Act. In the third year (FY 1988), if the same sub-State grantee receives $10,000, the required match will be $6,500 or 65 percent of the funds received under the Act.

If a different sub-State grantee receives funds for the first or second time under the Act, then the match is computed at 35 or 55 percent, respectively. The required match, in any case, should not be computed against total project funds or any amount other than the amount of funds received by the sub-State grantee under this Act.

State Application Requirements

The application requirements for these grants do not go beyond the requirements in the statute. We have cited each requirement to the specific section of the law.

Please note that the assurance in paragraph (3)(e) below limits the funds an entity may receive from the States in any one fiscal year; that no entity will be funded in excess of three years; and that no entity may receive more than a total of $150,000 under this Act (section 303(c)).

Please note also that in order to apply for these FY 1988 funds, all States must have in place a procedure for the eviction of an abusing spouse from a shared residence. (See the assurance in paragraph (3)(f) below.)

The Secretary will approve any application that meets the requirements of the Act and this Notice and will not disapprove an application unless the State has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

All applications must meet the following requirements:

The State's application may be signed by the Chief Executive of the State or the Chief Program Official designated as responsible for the administration of the Act.

The application must contain the following information:

(1) The name of a State agency contact person, if different from the Chief Program Official designated as responsible for the administration of State programs and activities related to family violence carried out under the Act and for the coordination of related State programs (section 303(a) (2) (D)).

(2) The procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (section 303(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include: State Advisory Committees on Family Violence, law enforcement officials, or Coalitions of Directors of Family Violence Shelters.)

(3) The application also must contain the following assurances:

(a) That funds under the Act will be distributed as demonstration grants to local public agencies and non-profit private organizations for programs and projects within the State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims and their dependents (section 303(a)(2)(A)).

(b) That not less than 60% of the funds distributed shall be used for immediate shelter and related assistance (section 303(g)).

(c) That not more than 5% of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(d) That in distributing the funds, the States will give special emphasis to the support of community-based projects of

demonstrated effectiveness carried out by non-profit private organizations (particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents) and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims (section 303 (a)(2)(B)(ii)).

(e) That no entity funded by the State will receive more than $50,000 in any one fiscal year, no entity will be funded for a total period in excess of three years, and no entity will receive more than a total of $150,000 under this Act (section 303(c)).

(f) That demonstration grants funded by the State will meet the matching requirements in section 303(f), i.e., 35 percent of the total funds provided under this title in the first year, 55 percent in the second year, and 65 percent in the third year; that except in the case of a public entity, not less than 50 percent of the local matching share shall be raised from private sources; that the local share may be cash or in-kind; and that the local share may not include any Federal funds provided under any authority other than this title (section 303 (f)).

(g) That demonstration grants funded by the State may not be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(h) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(i) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(j) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(k) That all demonstration grants made by the State under the Act must prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(l) That the State has a procedure for the eviction of an abusing spouse from a shared residence (section 303(a)(2)(F)).

(m) That States will comply with Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Part 74.

Indian Tribe and Tribal Organization Application Requirements

The application requirements for these grants do not go beyond the requirements in the statute. We have cited each requirement to the specific section of the law.

The Secretary will approve any application that meets the requirements of the Act and this Notice and will not disapprove an application unless the Indian Tribe or Tribal organization has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

The application from the Indian Tribe or Tribal organization must be signed by the Chief Executive Office of the Indian Tribe or Tribal organization and must contain the following information:

(1) The name of the organization or agency designated as responsible for the administration of this program (section 303(a)(D)).,

(2) The name of a contact person in the designated organization or agency.

(3) A copy of a resolution stating that the designated organization or agency has the authority to submit an application on behalf of the Indian individuals in the Tribe(s) (section 303(a)(2)(G)).

(4) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 302(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include: State Advisory Committees on Family Violence, law enforcement officials, and Directors of Family Violence Shelters.)

(4) A brief description of how the Indian Tribe or Tribal organization plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(2)(G)).

(5) Each application also must contain the following assurances:

(a) That not less than 60% of the funds shall be used for immediate shelter and related assistance (section 303(g)).

(b) That no funds under the Act will be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(c) That no income eligibility standard will be applied to individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(d) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(e) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(f) That Indian grantees will comply with Departmental recordkeeping and reporting requirements and general grant administration requirements of 45 CFR Part 74.

Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally recognized Indian Tribes are exempt from all provisions and requirements of E.O. 12372.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980–0175

(Catalog of Federal Domestic Assistance number 13.671, Family Violence Prevention and Services)

Dated: February 11, 1988.

Sydney Olson,

Deputy Assistant Secretary for Human Development Services.

State Allocation: Family Violence Prevention and Services Act

Alabama	$106,947
Alaska	50,00
American Samoa	8,647
Arizona	86,550
Arkansas	62,590
California	711,951
Colorado	86,207
Connecticut	84,148
Delaware	50,000
Dist. of Col	50,000
Florida	308,069
Georgia	161,067
Guam	8,647
Hawaii	50,000
Idaho	50,000
Illinois	304,850
Indiana	145,208
Iowa	75,230
Kansas	64,939
Kentucky	98,371
Louisiana	118,768
Maine	50,000
Maryland	117,766
Massachusetts	153,890
Michigan	241,310
Minnesota	111,195
Mississippi	69,266
Missouri	133,677

Montana	50,000
Nebraska	50,000
Nevada	50,000
New Hampshire	50,000
New Jersey	201,070
New Mexico	50,000
New York	468,951
North Carolina	167,057
North Dakota	50,000
No. Mariana Island	8,674
Ohio	283,714
Oklahoma	87,209
Oregon	71,192
Pennsylvania	313,716
Puerto Rico	86,391
Rhode Island	50,000
South Carolina	89,083
South Dakota	50,000
Tennessee	126,737
Texas	440,189
Trust Territory	8,647
Utah	50,000
Vermont	50,000
Virgin Islands	8,647
Virginia	152,702
Washington	117,766
West Virginia	50,000
Wisconsin	126,262
Total	6,917,300

Indian Tribal Eligibility

Below are two lists of Indian Tribes which are FY 1987 family violence prevention grantees. Tribes are listed by BIA Area Office based on Census Bureau population data or, where that is not available, BIA data.

Tribes under 3,000 population

Eastern Area Office

Miccosukee Tribe of Indians of Florida.

Aberdeen Area Office

Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Devil's Lake Sioux Tribe of the Devil's Lake Sioux Reservation, North Dakota
Winnebago Reservation of Nebraska.

Minneapolis Area Office

Grand Traverse Band of Ottawa and Chippewa Indians of Michigan
Menominee Indian Tribe of Wisconsin
Michigan Inter-Tribal Council on behalf of: Keweenah Bay Indian Community
Saginaw Chippewa Indian Tribe of Isabella Reservation, Michigan
Sault Saint Marie Tribe of Chippewa Indians of Michigan
Lac du Flambeau Reservation of Wisconsin
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Bad River Tribal Council, Wisconsin
Minnesota Chippewa:
Nett Lake Reservation (Bois Fort)
Fond du Lac Reservation
Grand Portage Reservation
Mille Lac Reservation.

Anadarko Area Office

Apache Tribe of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Comanche Indian Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Four Tribes of Kansas
Kickapoo Tribe of Kansas
Otoe-Missouria Tribes Oklahoma.

Billings Area Office

Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
Fort Belknap Indian Tribe of Montana.

Phoenix Area Office

Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Elko Band Council
Ft. McDermitt Paiute and Shoshone Tribes of the Ft. McDermitt Indian Reservation, Nevada
Ft. McDowell Mohave-Apache Indian Community, Arizona
Hualapai Tribe of the Hualapai Reservation, Arizona
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Reno-Sparks Indian Colony, Nevada
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada
Havasupai Tribe of Arizona
Yavapai-Prescott Tribe, Arizona
Ute Indian Tribe of the Unitah and Ouray Reservation, Utah
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Washoe Tribe of Nevada and California.

Albuquerque Area Office

Pueblo of Acoma, New Mexico
Pueblo of Isleta, New Mexico
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, and Utah.

Portland Area Office

Confederated Tribes of the Warm Springs Reservation, Oregon
Nez Perce Tribe of Idaho
Nisqually Tribe of Washington
Upper Skagit Indian Tribes of Washington
Skokomish Tribe of Washington
Muckleshoot Tribe of Washington
Puyallup Tribe of Washington
Squaxin Island Tribe of Washington.

Juneau Area Office

Ketchikan Indian Corporation, Alaska
United Crow Band, Alaska
Kodiak Native Association, Alaska
Northern Pacific Rim Association, Alaska.

Sacremento Area Office

Big Lagoon Rancheria, California
Coastal Indian Community of the Resighina Rancheria
Trinidad Rancheria
La Jolla Indian Band of Mission Indians.

Tribes over 3,000 population

Eastern Area Office

Eastern Band of Cherokee Indians of North Carolina
Mississippi BAnd of Choctaw Indians, Mississippi.

Aberdeen Area Office

Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota
Three Affiliated Tribes of the Fort Bethold Reservation, South Dakota
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota.

Billings Area Office

Shoshone-Arapahoe Tribes of Wyoming (Wind River Reservation).

Phoenix Area Office

Gila River Pima-Maricopa Indian Community of the Gila River Reservation, Arizona.

Navajo Area Office

Navajo Tribes of Arizona, New Mexico, and Utah.

Albuquerque Area Office

Pueblo of Laguna, New Mexico.

Portland Area Office

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Colville Reservation, Washington.

Juneau Area Office

Association of Village Council Presidents, Alaska
Central Council of the Tlingit and Haida Indians of Alaska
Tanana Chiefs Conference, Alaska
Bristol Bay Native Association of Alaska
Fairbanks Native Associaiton, Alaska.

Muskogee Area Office

Cherokee Nation of Oklahoma
Choctaw Nation of Oklahoma
Muskogee Creek Nation of Oklahoma.

Minneapolis Area Office

Minnesota Chippewa: Leech Lake Reservation.

[FR Doc. 88-3467 Filed 2-17-88; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Division of Research Resources; Subcommittee on Primate Research Centers, Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, March 29, 1988, National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 3:00 p.m. to approximately 5.00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:00 a.m. until approximately 3:00 p.m. for the review, discussion, and evaluation of individual grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request. Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 5B55, Bethesda, Maryland 20892, (310) 496-5175, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-3422 Filed 2-17-88; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Resources; Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GSRC), Division of Research Resources (DRR), March 24-25, 1988, Building 31, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on March 25, from 1:00 p.m. to adjournment to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 24, from 8:30 a.m. to 5 p.m. and on March 25, 8:30 a.m. to 12:30 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Lawrence J. Alfred, Executive Secretary, (301) 496-4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support, National Institutes of Health).

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-3423 Filed 2-17-88; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Preclinical Program Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Preclinical Program Project Review Committee, National Cancer Institute, National Institutes of Health, March 31, 1988, Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892. This meeting will be open to the public on March 31 from 8:30 a.m. to 8:45 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 31 from approximately 8:45 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, National Institutes of Health, Building 31, Room 10A06, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Edwin M. Bartos, Executive Secretary, Cancer Preclinical Program Project Review Committee, National Cancer Institute, National Institutes of Health, Westwood Building, Room 826, Bethesda, Maryland 20892 (301/496-7565) will furnish substantive program information.

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-3424 Filed 2-17-88; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, March 2-4, 1988, at the Red Lion Hotel, 255 South West Temple, Salt Lake City, Utah 84101.

This meeting will be open to the public on March 2 at 8:00 p.m. to 8:30 p.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 2 at 8:30 p.m. to adjournment on March 4 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and a roster of the Committee members.

Ms. Cynthia Sewell, Executive Secretary, Westwood Building, 5333 Westbard Avenue, Room 838, Bethesda, Maryland 20892 (301/496–7721) will provide substantive program information upon request.

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–3426 Filed 2–17–88; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Therapeutics Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, on March 28–30, 1988, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on March 28 from 8 a.m. to 8:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 28 from 8:30 a.m. to adjournment on March 30 for the review, discussion and evaluation of individual program project applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Philip L. Perkins, Executive Secretary, Westwood Building, Room 820, Bethesda, Maryland 20892 (301/496–2330) will provide substantive program information, upon request.

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–3425 Filed 2–17–88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee (AMS) of the National Institute of Arthritis and Musculoskeletal and Skin Diseases on March 7 and 8, 1988, Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland. The meeting will be open to public from 8 p.m. to 8:30 p.m. to discuss administrative details or other issues relating to the committee activities as indicated in the notice. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

The meeting will be closed to the public from 8:30 p.m. on March 7 to adjournment on March 8 in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6, Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning this meeting may be obtained from Dr. Melvin Gottlieb, Executive Secretary, Arthritis and Musculoskeletal and Skin Diseases Special Grant Review Committee, NIAMS, Westwood Building, Room 407, Bethesda, Maryland 20892, (301) 496–7326.

Mrs. Carole Frank, Committee Management Officer, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C11, Bethesda, Maryland 20892, 301–496–0803, will provide summaries of the meeting and roster of the committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Dated: February 9, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–3427 Filed 2–17–88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-88-1769; FR-2470]

Emergency Shelter Grants Program; Funding Availability

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability.

SUMMARY: The Emergency Shelter Grants program authorizes HUD to make grants to States, units of general local government, and private nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of certain operating expenses, and for essential social service expenses in connection with emergency shelters for the homeless. This Notice informs the public of the availability of $8 million in additional appropriations for the Emergency Shelter Grants program under the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Pub. L. 100–202, approved December 22, 1987) and provides notice of the requirements that govern the allocation and use of such funds.

EFFECTIVE DATE: February 18, 1988.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director,

Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755–5977. For matters relating to Emergency Shelter Grants to States, James N. Forsberg, Director, State and Small Cities Division, Room 7184, telephone (202) 755–6322. (These are not toll-free telephone numbers).

SUPPLEMENTARY INFORMATION:

Background

The Emergency Shelter Grants ("ESG") program was first enacted as Part C of Title V of HUD's appropriation for fiscal year 1987.[1] On July 22, 1987, the ESG program was reauthorized by Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77) (the "McKinney Act").[2]

The Supplemental Appropriations Act (Pub. L. 100–71, approved July 11, 1987) provided for an initial appropriation of $50 million for the 1987 ESG program. On September 4, 1987, the Department published a Notice in the **Federal Register** (52 FR 33790) announcing the requirements that would govern the allocation and use of the $50 million appropriation.

Consistent with section 416(a) of the McKinney Act, the September 4 Notice provided that funds authorized under the 1987 program and appropriated under the Supplemental Appropriations Act would be governed by the proposed rule and program requirements for the 1986 ESG program (51 FR 45278, December 17, 1986, adding a new 24 CFR Part 575). The Notice also specified a number of modifications to the 1986 ESG program that would apply to the supplemental appropriation. These modifications generally stemmed from McKinney Act requirements, such as the necessity of a HUD-approved Comprehensive Homeless Assistance Plan (CHAP) as a condition for receiving ESG funding, certain application requirements, and fund allocation procedures. It further provided that when a final rule for the 1986 ESG program took effect, that rule and the modifications contained in the September 4 Notice would govern the 1987 ESG program.

Among other things, the September 4 Notice specifically provided that HUD would not implement section 414(b) of the McKinney Act for purposes of the program subject to the Notice. The Department stated its belief that section 414(b) should be implemented by notice and comment rulemaking because of its discretionary nature. Section 414(b) authorizes the Department to waive the program requirement that limits to 15 percent the amount of assistance that a unit of general local government may use for essential services in connection with providing emergency shelter for the homeless.

Upon reconsideration, however, the Department determined that it would be inappropriate to ignore the clear congressional intent that units of general local government be relieved from the strictures of the 15 percent cap in certain circumstances. As a result, the Department published a Notice in the **Federal Register** on October 19, 1987 (52 FR 38876) announcing that it would entertain requests under § 575.5 of the 1986 ESG program for purposes of the September 4 Notice, from units of general local government to waive the 15 percent ceiling on "essential services" upon meeting specified criteria.

The ESG program received an additional appropriation of $8 million for fiscal year 1988 under the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1988 (Pub. L. 100–202, approved December 22, 1987). This Notice is intended to inform the public that the additional appropriation will be allocated and used in accordance with the requirements of the 1986 ESG final rule published on October 19, 1987 (52 FR 38864), together with the modifications described below. It should be noted, however, that the Department expects to publish a final rule for the 1987 ESG program soon and, in accordance with section 416(a) of the McKinney Act, the requirements of that final rule will then govern the allocation and use of funding, as well as the reallocation of grant amounts, under the 1987 ESG program.

Requirements for the Allocation and Use of Funds Appropriated by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1988

1. *Application Requirements.* The Department is in the process of notifying States, ESG formula cities and counties, and Territories of their grant allocations under the $8 million ESG appropriation. These letters of notification will trigger the 45-day (in the case of formula cities and counties) and 75-day (in the case of States) deadlines for filing and ESG application specified in § 575.33(a) of the 1986 final rule.[3]

All applications to HUD for ESG assistance must include the following:

A. *Comprehensive Homeless Assistance Plan and Plan Certification.* Subtitle A of Title IV of the McKinney Act prohibits assistance under the other provisions of Title IV (including the ESG program) from being made available to, or within the jurisdiction of, States and ESG formula cities and counties, unless the jurisdiction has a HUD-approved Comprehensive Homeless Assistance Plan ("CHAP"). (*See* discussion of CHAP requirements in the Notice published in the **Federal Register** on August 14, 1987, 52 FR 30628.)

For purposes of receiving ESG assistance under the $8 million appropriation, States, ESG formula cities and counties, and Territories that already have a HUD-approved CHAP (this encompasses all States and all but five ESG cities and Territories that received an allocation of funds under the earlier $50 million appropriation) must include a certification as part of their ESG application that their proposed activities are consistent with their existing Plan.

Grantees that do not already have a HUD-approved CHAP are required, under section 413(d) of the McKinney Act, to obtain approval of their plan within 90-days of the date that funds first become available for allocation, i.e. by April 17, 1988. Failure of these ESG formula cities or counties to obtain approval of their comprehensive plan during the 90 day period will result in a reallocation of the grant amount to the State in which the city or county is located. Failure of a Territory to obtain approval of its Plan during the 90-day period will result in reallocation to other Territories, consistent with the requirements that will be established in the final rule for the 1987 ESG program. If CHAP approval is obtained within the 90-day time period, the ESG application must contain the required certification that proposed activities are consistent with the CHAP.

Under the McKinney act, the filing of a CHAP, as well as the certification of consistency with the approved CHAP, replaces the requirement that program grantees submit a Homeless Assistance

[1] Section 101(g), Pub. L. 99–500 (approved October 18, 1986) and Pub. L. 99–591 (approved October 30, 1986), making appropriations as provided in H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986). For ease of reference, this Notice refers to this program as the "1986 ESG program."

[2] For ease of reference, this Notice refers to the program as the "1987 ESG program."

[3] It should be noted that in the final rule for the 1987 ESG program, the Department intends to change the deadline for States to file their ESG application to conform to the 45-day period currently imposed upon formula cities, counties and Territories.

Plan, as provided in § 575.33(b)(2) (formula allocation) and § 575.41(c)(3)(ii) (reallocation) of the 1986 ESG program.

B. *Other Certifications and Assurances.* The ESG application must contain the certifications and assurance listed under § 575.33(b)(3), (b)(4) and (b)(5) of the October 19, 1987 final rule, and Standard Form 424 (§ 575.33(b)(1)). This would include any required certifications under § 575.33(b)(3)(iv) related to emergency shelter in hotels, motels, or other commerical facilities that provide transient housing.

C. *Budget Data and Verification of Program Consistency.* In the case of a metropolitan city, urban county, or Territory, item (7) of Standard Form 424 must contain budgetary information identifying the applicant's proposed use of grant amounts for each of the three categories of eligible activities under §§ 575.21(a)(1), (a)(2), and (a)(3). States must provide a statement at item (7): (1) Regarding how they intend to implement the requirement in § 575.23(a) that the entire formula allocation will be made available to units of general local government in the State; or (2) identifying the specific units of local government that will receive these amounts. A State may use the results of its 1987 solicitation to identify grantees, if it so chooses.

2. *Funding Allocation Provisions.* The funding threshold for formula cities and counties will be $4,000 (.05 percent of the $8 million appropriation) as provided under the McKinney Act, rather than the $30,000 threshold contained in § 575.31(c) of the 1986 ESG program. As under the 1986 and 1987 ESG programs, allocations below the threshold amount will be added to the allocation for the State in which the city or county is located.

3. *Territories.* HUD has set aside grant amounts for allocation to the Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and the Trust Territory of the Pacific (Palau). As with funding under the Supplemental Appropriations Act of 1987, the Department will allocate the amount set aside for the Territories based upon each Territory's proportionate share of the total population of the territories. Since this particular allocation method, however, involves an exercise of discretion by HUD, the Department has requested public comment on this formula in its November 6, 1987 proposed rule for the 1987 ESG program (52 FR 42664). Any revisions made to the allocation formula will be incorporated into the final rule and will govern future funding of the Territories under the ESG program.

In addition, while the McKinney Act includes Territories in its definition of "States", the unique governmental structure of these entities requires that, for purposes of program administration, they be treated as metropolitan cities Consequently, the 1986 ESG program requirements in Part 575 applicable to metropolitan cities also will govern the Territories.

4. *Reallocations for Failure to have an approved CHAP.* If an ESG formula city or county fails to obtain approval of its Plan on or before April 17, 1988 (90 days from the date that this round of ESG funds first becomes available for allocation), HUD will reallocate the amounts to the State in which the city or county is located. Since every State has a HUD-approved CHAP for the 1987 ESG program, the provision that would have reallocated funds based upon a *State's* failure to have an approved CHAP, will not apply for purposes of the $8 million appropriation.

5. *15% Waiver Provision.* Consistent with the Notice published in the **Federal Register** On October 19, 1987 (52 FR 38876), the Department will entertain requests from units of general local government under § 575.5 of the 1986 ESG final rule to waive the 15 percent ceiling on "essential services", provided that the unit of government demonstrates to HUD that:

(1) Activities other than essential services are adequately provided by private or public resources, which can include some portion of the ESG funds (up to 85 percent of each grant amount) provided to the unit of government; and

(2) The amount that is in excess of 15 percent of each grant amount provided to the unit of government, and which the unit of government proposes to use for essential services, cannot practicably be expended for other activities. Wavier requests from State recipients must first be sent to the State. The State will then promptly send the requests to HUD, with any comments or recommendations it may have on them.

6. *Environmental Review Procedures and Standards.* Except as provided below, the environmental safeguards and review provisions contained in the final rule for the 1986 ESG program (52 FR 38864, published October 19, 1987) will govern this new round of ESG funding:

A. *Applicability of NEPA.* The Department assumes that the National Environmental Policy Act (NEPA) applies to ESG programs that are funded under fiscal year 1988 and subsequent appropriations. This means that the Department, in reviewing applications, will undertake environmental review under NEPA, the Council on Environmental Quality's (CEQ) regulations at 40 CFR Part 1500, and HUD's own regulations at 24 CFR Part 50.

i. The Department's NEPA review will focus on proposed activities that involve the renovation, major rehabilitation of conversion of buildings. If these activities fall below the thresholds stated in § 50.20 of HUD's regulations, they will be treated as categorically excluded, within the meaning of the CEQ regulations. Proposed activities that do not involve renovation, rehabilitation or conversion, or that otherwise do not involve physical change, are deemed to lack the potential to significantly affect the human environment and, therefore, are categorically excluded.

ii. The Department will approve only those applications which, on the basis of environmental review, justify a Finding of No Significant Impact, or which consist of activities that are categorically excluded under NEPA. Because of time constraints on HUD's review and approval of applications, the Department will not approve grants for projects that involve a significant impact on the human environment and which, therefore, require HUD to prepare an environmental impact statement (EIS). The Council on Environmental Quality's EIS requirements involve a significantly greater expenditure of time than is available to HUD.

iii. Applicants are expected to provide HUD with any reasonable information which HUD staff may need in order to complete environmental review.

The modifications discussed above are necessitated by the fact that HUD has not received or requested an exemption from the Council of Environmental Quality for the ESG program beyond those programs funded for fiscal year 1987 appropriations, for the start-up period of the program. For purposes of NEPA review, these modifications are consistent with the objective of funding environmentally sound and trouble-free sites.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket clerk, at the above address.

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget under the Paperwork Reduction Act and approved under control number 2506–0089.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 11, 1988.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 88–3383 Filed 2–17–88; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-08-4212-14]

Realty Action; Proposed Noncompetitive Sale; in Douglas County, NV

February 8, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action on proposed sale.

SUMMARY: The following described land, comprising 40 acres, has been examined and will be offered for sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (90 Stat. 2750); 43 U.S.C. 1713 to the Board of Douglas County Commissioners:

Mount Diablo Meridian, Nevada

T. 12 N., R. 21 E.,
Sec. 18, W1/2SW1/4NE1/4, E1/2SE1/4NW1/4.

Patent No. 27–68–0119 was issued to Douglas County on December 8, 1967, pursuant to the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869, *et seq.*), for 97.05 acres of land on which to develop a rifle range. The County has given notification of partial reconveyance of the patented land so that it can be purchased pursuant to FLPMA.

The sale will not occur until the reconveyance has been accepted and an opening order published. This notice is being issued in advance of the opening order in recognition of Douglas County's urgent need to resolve its sanitary landfill requirements. This allows public comment on the proposed action concurrent with action on the proposed reconveyance.

The land is not needed for any Federal purpose, as has been demonstrated by the previous action transferring it to Douglas County in 1967. Sale of the land would serve a public objective and benefit the county by providing land that could be used as an alternative location for the existing sanitary landfill.

Patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

The mineral estate, having no known mineral values, will be conveyed simultaneously with the surface estate.

The land will be offered no earlier than 60 days after the date of this notice. For a period of 45 days after the date of this notice, interested parties may submit comments to the Bureau of Land Management, Carson City District Office, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706. Any adverse comments will be evaluated by the District Manager. The Nevada State Director, Bureau of Land Management, may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated this 8th day of February 1988.

James W. Elliott,

District Manager, Carson City District.

[FR Doc. 88–3365 Filed 2–17–88; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-050-8-4212-13]

Arizona; Resource Management Planning; Yuma District Resource Management Plan; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to notice of intent to file Category I amendment to Yuma District Resource Management Plan, Yuma District, Arizona.

SUMMARY: This amends **Federal Register** Notice printed in Vol. 53, No. 16, January 26, 1988, p. 2095. Under ACTION, change from Notice of Intent to File to Notice of Intent to Prepare. In paragraph 1, last sentence, change the proposed completion date to April 1, 1988. In paragraph 2, line 15, add NE¼NW¼ NW¼ to the lands in sec. 18, T. 10 S., R. 23 W., G&SRM.

Robert V. Abbey,

Acting District Manager.

Date: February 8, 1988.

[FR Doc. 88–3366 Filed 2–17–88; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 8667, Block 148, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on February 5, 1988. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management

Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 8, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-3367 Filed 2-17-88; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-388 (Preliminary)]

Certain All Terrain Vehicles From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-388 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of all terrain vehicles (ATVs), assembled or unassembled, provided for in item 692.10 of the Tariff Schedules of the United States,[1] that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 25, 1988.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 9, 1988.

SUPPLEMENTARY INFORMATION: Judith C. Zeck (202-252-1199), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on February 9, 1988, by Polaris Industries L.P., Minneapolis, Minnesota.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 1, 1988, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Judith Zeck (202-252-1199) not later than February 26, 1988, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before March 3, 1988, a written statement of information pertinent to the subject of the investigation as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission s rules (19 CFR 207.12).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: February 12, 1988.

[FR Doc. 88-3483 Filed 2-17-88; 8:45 am]

BILLING CODE 7020-02-M

[1] For purposes of this investigation, ATVs are defined as motor vehicles principally designed for the transport of persons, and containing spark-ignition internal combustion reciprocating piston engines of a cylinder capacity not exceeding 1,000 cubic centimeters displacement. They are designed to carry one operator and no passengers, have three or four wheels, weigh less than 600 pounds, and are non-amphibious. ATVs are less than 63 inches in height and less than 50 inches in overall width (exclusive of accessories and optional equipment). They have a seat designed to be straddled by the operator, and handlebars for steering control. ATVs are designed for off-pavement operation and are, if imported, reported under item 692.1090 of the Tariff Schedules of the United States Annotated. (The articles covered by this investigation are also provided for in subheading 8703.00 of the proposed Harmonized Tariff Schedule of the United States (USITC Pub. 2030).)

[332-252]

Annual Surveys on Ammonium Paratungstate, Tungstic Acid, and Tungsten Oxide

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation.

EFFECTIVE DATE: February 8, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Jack A. Greenblatt or Mr. James A. Emanuel, Energy and Chemicals Division, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 (telephone: 202-252-1353, 202-252-1367, respectively).

Background and Scope of Investigation

The Commission instituted the investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) at the request of the President as contained in the Annex to Presidential Proclamation 5718 of October 2, 1987 (52 FR 37275). Proclamation 5718 provides for implementation of an orderly marketing agreement with the People's Republic of China (PRC) with respect to the export from the PRC and import into the United States of ammonium paratungstate and tungstic acid. The agreement was negotiated by the U.S. Trade Representative following receipt of a report from this Commission under section 406 of the Trade Act of 1974 (19 U.S.C. 2436) stating that the Commission had determined that market disruption exists with respect to imports of such articles from the PRC. The Commission recommended that import relief be imposed.

As provided for in the annex to the proclamation, the Commission will conduct annual surveys to obtain data on ammonium paratungstate, tungstic acid, and tungsten oxide, provided for in items 417.40, 416.40, and 422.42, respectively, of the Tariff Schedules of the United States, from producers in the United States by calendar quarter on shipments, profits, capacity and capacity utilization, and annual data on capital expenditures and research and development expenditures; and to obtain data on such products from importers by calendar quarter on prices, orders, and inventories.

The initial survey will cover calendar year 1987 and will be transmitted to the President by March 31, 1988, and the results of subsequent annual surveys will be transmitted to the President on March 31 of each year thereafter as long as the orderly marketing agreement is in effect.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202)-252-1810.

By the order of the Commisson.
Issued: February 8, 1988.

Kenneth R. Mason,
Secretary.

[FR Doc. 88-3451 Filed 2-17-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-273]

Cellular Mobile Telephones and Subassemblies and Component Parts; Import Investigation

In the matter of certain cellular mobile telephones and subassemblies and component parts thereof; Notice of receipt of initial determination terminating respondents on the basis of consent order agreement.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: NovAtel Communications Ltd., NovAtel Carcom, Inc., NovAtel Communications, Inc., Hickman Investments, Inc., Hyundai Electronics Industries Co., Ltd. and Astec International Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 11, 1988.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commissioin and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: February 10, 1988.

[FR Doc. 88-3452 Filed 2-17-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-274]

Toggle Clamps for Clamping, Fixturing, Processing and Original Equipment Manufacturing; Import Investigation

In the matter of certain toggle clamps for clamping, fixturing, processing, and original equipment manufacturing; Notice of initial determination terminating respondents on the basis of settlement agreement.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Tai-Wu Industry Co., Ltd., Good Hand Enterprises Co., Ltd., Material Supply International, Inc. and All American Products Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 8, 1988.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the

Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: February 5, 1988.

[FR Doc. 88-3453 Filed 2-17-88; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31143]

Itel Rail Corp. and Itel Corp.; Continuance in Control Exemption; Ferdinand and Huntingburg Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the continuance in control by Itel Rail Corporation and, in turn, Itel Corporation of Ferdinand and Huntingburg Railroad Company, subject to standard labor protective conditions.

DATES: This exemption will be effective on March 19, 1988. Petitions to stay must be filed by February 29, 1988, and petitions for reconsideration must be filed by March 10, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31143 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representatives: Thomas J. Byrne, Carl V. Lyon, Itel Corporation, 1101 30th Street NW., Suite 302, Washington, DC 20007

John M. Nannes, Robert A. Potter, Skadden, Arps, Slate, Meagher & Flom, 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 (202) 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 8, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88-3398 Filed 2-17-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

Criminal Justice Discretionary Grants

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: Notice of proposed program priorities.

SUMMARY: The Bureau of Justice Assistance (BJA) is publishing for public comment a notice of proposed program priorities for state and local criminal justice discretionary grant funding, as authorized by the Justice Assistance Act of 1984 (Pub. L. 98-473, October 12, 1984, 42 U.S.C. 3711, *et seq.*)

DATE: Comments are due on or before March 28, 1988.

ADDRESS: Send comments to Nicholas L. Demos, Bureau of Justice Assistance, 633 Indiana Avenue, NW., Washington, DC 20531, 202/272-4605.

FOR FURTHER INFORMATION CONTACT: For general questions about the priorities and range of discretionary grant programs contact James C. Swain, Director, Discretionary Grant Programs Division, Bureau of Justice Assistance, 633 Indiana Avenue, NW., Washington, DC (202) 272-4605. For information on particular programs, the program contact person is indicated in each program description.

SUPPLEMENTARY INFORMATION: On October 12, 1984, President Reagan signed into law the Justice Assistance Act of 1984. Part E of the Act established a program of criminal justice discretionary grants for public agencies and private non-profit organizations. The Act also specifies four purposes for which discretionary grants can be made: (1) Education and training programs for criminal justice personnel; (2) technical assistance to states and local governments; (3) national or multi-state projects; and (4) demonstration programs.

The FY 1988 appropriations for Part E discretionary programs is $8 million. A portion of these funds was earmarked by the Congress for specific construction. The remaining discretionary funds were programmed with an emphasis on continuations of BJA programs initiated in Fiscal Years 1986 and 1987, including national technical assistance and training activities, support for professional standards, and completion of demonstration programs. In terms of substantive areas the emphasis is on crime prevention activities, law enforcement support, improved court management, and support for state prison capacity studies. There was little leeway in the FY 1988 programming for new initiatives. After a 45 day comment period and Bureau consideration of all comments received, a final notice of its priorities will be published in the **Federal Register**.

Subpart I—Construction

Background: The Congressional appropriation earmarked $2,025,000 for two construction projects: a Judicial Center in Owensboro, Kentucky; and a Water Treatment System in Alderson, West Virginia, which serves the federal prison in Alderson.

Because of restrictions in the Act concerning construction projects and other legal concerns, BJA must await an opinion from the Controller General before making awards under this section.

Subpart II—Enforcement

Program Title: Deadly Force Training and Technical Assistance.

Purpose: Since October 1986, the Bureau of Justice Assistance has sponsored training and technical assistance for police executives in the development and implementation of deadly force policy. Under a cooperative agreement with the International Association of Chiefs of Police (IACP),

the project is based on the best available research. Due emphasis is placed on the 1985 U.S. Supreme Court ruling in *Tennessee* v. *Garner* and other recent cases. It has become evident that critical deadly force issues remain in state and local jurisdictions. To improve the implementation of sound deadly force policies, and to reduce friction and liability for communities, BJA is emphasizing training of supervisors and field training officers under this grant extension.

Grant Period: We anticipate a twelve-month extension of the current cooperative agreement with IACP.

Award Amount: $250,000 is earmarked for this project.

Project Contact: The BJA contact is Fred W. Becker at 202/272–4605.

Program Title: Expert Systems for Residential Burglaries.

Purpose: This program was announced in the May 6, 1987 **Federal Register**; however the Bureau made the decision not to fund the full program at that time. A "Phase One" program was funded that was preparatory to the planned demonstration. It included preliminary screening for potential demonstration sites. The focus of the program is an artificial intelligence system, based on research conducted in the United Kingdom, designed to assist police agencies in the successful investigation of residential burglaries. A more sophisticated version is being developed, utilizing more powerful hardware and software that has just become available. The new advanced version is currently being tested in Baltimore County, Maryland. That system will be operational by February 1988. If it proves successful, the Bureau of Justice Assistance will continue with the previously announced plan to establish the system in up to four additional jurisdictions. Successful implementation in the demonstration sites should lead to widespread utilization of the technology using commonly available micro-computers.

Grant Period: A minimum of twelve months will be added to the current grant to effect demonstrations.

Eligibility Criteria: BJA will extend the current project with the Jefferson Institute for Justice Studies, Washington, DC

Award Amount: A $350,000 program is contemplated with a combination of $100,000 Justice Assistance Act and $250,000 Anti-Drug Abuse Act funding.

Project Contact: The BJA contact is Fred W. Becker at 202/272–4605.

Program Title: Law Enforcement Technical Assistance and Training.

Purpose: The Bureau of Justice Assistance intends to extend the current cooperative agreement with the Police Foundation that provides technical assistance and training to law inforcement agencies. This project provides a broad range of assistance to state and local programs including those initiated under Justice Assistance Act Block Grant support. Reflecting emphases in the Act, major efforts to date have concentrated on Integrated Criminal Apprehension Programs (ICAP), STING programs, Arson, Organized Crime, and White Collar Crime.

Grant Period: We will extend the current cooperative agreement for an additional twelve months.

Award Amount: $450,000 is earmarked for this project.

Project Contact: The contact is Fred W. Becker at 202/272–4605.

Program Title: Commission on Accreditation For Law Enforcement Agencies.

Purpose: The Bureau of Justice Assistance and its predecessor Agencies in the U.S. Department of Justice have long fostered the concept of voluntary professional accreditation as one means of ensuring quality state and local law enforcement. We have provided financial assistance in support of the concept and its implmentation from the planning phase through the present. Today the Commission on Accreditation for Law Enforcement Agencies is a thriving reality, nearing financial independence. There has been a tremendous upsurge in the number of law enforcement agencies that have entered into the accreditation process. Over 600 agencies are currently involved. In addition, thousands of other police officials, and officials of state, county and municipal executive and legislative branches have expressed interest. The original 900 plus standards were developed using the resources of the four founding national organizations. Revisions to standards have been accomplished, as needed, by the Commission and staff. However, workload resulting from the aforementioned growth makes it impossible for existing staff to develop new accreditation standards required to keep up with research, legal precedents, crime trends, etc. Failure to remedy this situation will result in the erosion of the standards and ultimately in the value of the accreditation process. Therefore, the Bureau of Justice Assistance will make an award to the Commission for reserch and development for priority additions/revisions to the body of standards for accreditation (Standards Manual).

Grant Period: The nature of the work requires a minimum of 18 months.

Award Amount: $150,000 is earmarked for this project.

Project Contact: The contact is Fred W. Becker at 202/272–4605.

Supart III—Adjudication

Program Title: Adjudication Training Program.

Purpose: This project will produce training manuals, guides and other materials which can assist users to implement court delay reduction and jail capacity management. This ongoing project with the National Center for State Courts (NCSC) will continue that work by producing training materials addressing these issues for use by state and local jurisdictions as well as in national workshops.

Grant Period: A 12-month period is anticipated beginning April 1, 1988.

Eligibility Criteria: This award will supplement an existing grant to the National Center for State Courts.

Award Amount: $100,000.

Project Contact: The BJA contact is Linda McKay at 202/272–4601.

Program Title: National Judicial Symposium.

Purpose: BJA, with other interested agencies, plans to convene a major national conference of judges and other court professionals in late spring, 1989. Topics for discussion would encompass all aspects of judicial operations, including the role of judges in court management and in justice system leadership and coordination, the need for improvement in court management technologies/procedures, and ways of assisting rural and smaller courts. This award would support the initial planning, including developing an agenda, organizing panels, and the preparation of papers for presentation at the conference.

Grant Period: A 12-month project is anticipated, to begin no later than July 1, 1988.

Eligibility Criteria: An award would be made following a limited competition among applicants with prior experience in both organizing a major national-level conference and in interacting and dealing with court professionals.

Award Amount: $75,000.

Project Contact: The BJA contact is Jay Marshall at 202/272–4601.

Program Title: Appellate Court Delay Reduction Program.

Purpose: The American Bar Association (ABA) will continue to assist jurisdictions seeking to implement either the ABA's own standards for reducing delay in appellate courts or

standards developed by the sites themselves. It will develop models for efficient appellate case processing. The project will also include preparation and dissemination of documents, both to encourage and to assist other jurisdictions to implement successful appellate court delay reduction programs.

Grant Period: The supplemental award period will be 12 months, to begin October 1, 1988.

Eligibility Criteria: This award will be made to the American Bar Association.

Award Amount: $150,000.

Project Contact: The BJA contact is Jay Marshall at 202/272-4601.

Program Title: Structured Sentencing Program.

Purpose: This program assists states in improving consistency and uniformity of criminal sentencing, with an emphasis on sentencing guidelines. It evolved from the experience of the Minnesota and Washington State sentencing guidelines and other state experiences with structured sentencing. This program was initiated in 1987 with a grant to the Institute for Rational Public Policy, Washington, DC. Four jurisdictions were selected on a competitive basis for grant funds and intensive technical assistance—Tennessee, Louisiana, Oregon, and Washington, DC.

1988 funding will provide continuation funding for two of the current states, and grant funds for staff and consultant services to two new states. Lastly, the technical assistance grant to the Institute for Rational Public Policy will be extended.

Grant Period: The grant to the Institute for Rational Public Policy will be extended for an additional 12 months.

Eligibility Criteria: Interested states should contact the BJA program manager for additional details. Two additional states will be selected on a competitive basis in May or June, 1988, based on concept papers submitted to the Institute for Rational Public Policy.

Award Amount: The current grant to the Institute for Rational Public Policy will be supplemented in the amount of $425,000, of which approximately $300,000 will be passed through to state sentencing commissions or task forces under contracts with the Institute after approval by BJA.

Project Contact: The BJA Program contact is Nicholas Demos, Program Manager for Corrections at 202/272-4605.

Program Title: Family Violence and the Role of the Family Courts.

Purpose: The National Council for Juvenile and Family Court Judges (NCJFCJ) is seeking to determine if family courts which are authorized to exercise criminal jurisdiction over adults involved in perpetrating violence within the family or household can effectively do so, as well as provide a more comprehensive program of services and treatment to the victims and other members of the household. Three jurisdictions are currently participating in this program.

Grant Period: A 6-month supplemental award period is anticipated, to begin September 1, 1988.

Eligibility Criteria: This award will supplemental an existing grant to the National Council of Juvenile and Family Court Judges.

Award Amount: $175,000.

Project Contact: The BJA contact is Linda McKay at 202/272-4601.

Program Title: Family Violence Intervention Program.

Purpose: The program goal is to more effectively respond to spouse abuse incidents and, ultimately, stop the abuse through (1) more vigorous prosecution of abusers and (2) better coordination of criminal justice system and social service providers, to both aid victims and treat abusers.

Eight jurisdictions are currently participating in this program. Supplemental funding will be provided to some of these jurisidiction to allow the demonstrations to continue.

Grant Period: Supplemental grant periods may vary among those sites selected for awards.

Eligibility criteria: Only jurisdictions already participating in the program will be eligible for funding. Selection criteria will include progress toward implementation of overall program goals, provision of sufficient data to the evaluators to allow project assessment, and potential for program continuation beyond the period of federal discretionary grant support.

Award amount: $150,000 is available for total program supplementation. The allocation of these funds among the sites selected for additional awards will vary.

Project contact: The BJA contact is John Veen at 202/272/4601.

Program Title: Evaluation of BJA Demonstration Programs.

Purpose: In FY 1986, BJA initiated demonstration programs in three areas: child abuse prosecution, family violence intervention, and community crime prevention. In order to judge the success of these demonstrations and to provide for dissemination of information (Program Briefs), as independent evaluation of these three programs was funded.

For each of the three demonstration program areas (21 jurisdictions in all), the Institute for Social Analysis (ISA) is gathering and analyzing general process/procedural information and case specific data.

Grant period: Supplemental grant period will be for 12 months, to begin April 1, 1988.

Eligibility criteria: This award will be made to the Institute for Social Analysis.

Award amount: $80,000.

Project contact: The BJA contact is John Veen at 202/272/4601.

Subpart IV—Corrections

Program title: Prison Capacity Program.

Purpose: This program is a continuation of a technical assistance and demonstration program initiated in 1987 to assist state corrections commissions and task forces. BJA initiated a fourteen state Prison Capacity Program under a special Congressional authorization to assist state policymakers in developing a cohesive corrections policy. The program provides seed money and technical assistance to state commissions or task forces made up of representatives of the three branches of government, or to legislative committees revising corrections policy.

Each of the commissions or task forces is considering a wide range of corrections alternatives including prison capacity and updated inmate population projections; distribution of populations between state institutions and jails; and a wide range of alternative sanctions including expanded community corrections options. Technical assistance is provided under a grant to the National Council on Crime and Delinquency (NCCD).

Grant period: This funding will extend the work of selected state commissions for an additional six months, and continue technical assistance into mid-1989.

Eligibility criteria: The emphasis in 1988 will be on the fourteen jurisdictions already in the program. Criteria remain the same as in 1987.

Award amount: $450,000 is earmarked for this program to be distributed as follows: $340,000 for continuation funding in five or six states, and $110,000 for technical assistance and training activities.

The 1988 funds will be awarded to the National Council on Crime and Delinquency, San Francisco, which will

distribute funding to the states under direction of the Bureau.

Project contact: The BJA contact is Nicholas Demos, Program Manager for Corrections, 202/272/4601.

Program title: Prison Industry Information Clearinghouse.

Purpose: This project provides publications, technical assistance and special research for state prison industries. It is a continuation of a clearinghouse for state prison industries developed at the American Correctional Association (ACA) in 1986.

ACA staff handle technical assistance requests on a wide-range of prison industry issues, including legislation, personnel procedures, marketing and sales, and organization and management, as well as joint ventures with the private sector. Requests are handled through document retrieval and reproduction, special research, and operation of PI-Net, the automated information system. Periodic bulletins on topics of special interest are distributed to all state prison industries.

Grant period: This project will be extended for 10–12 months through June of 1989.

Eligibility criteria: This is a continuation project to the American Correctional Association.

Award amount: $175,000 is earmarked for this project.

Project contact: The BJA contact is Nicholas Demos, Program Manager for Corrections, at 202/272/4605.

Program Title: Strategic Planning for Prison Industries.

Purpose: This project will continue to provide technical assistance to state correctional industries to expand their business operations. The emphasis will be on long term strategic planning, defining business objectives, growth markets, and means of financing growth. Small sub-grants of $10,000–$25,000 per state may be approved by BJA through the Technical Assistance Coordinator.

Technical Assistance Coordinator for this project is the Institute for Economic and Policy Studies-Correctional Economics Center, Alexandria, Virginia.

Grant Period: This project is being extended for 6 months to June, 1989.

Eligibility Criteria: This will be a continuation grant to the Institute for Economic and Policy Studies.

Award Amount: $125,000, to be distributed as follows: approximately $45,000 for two new state prison industry planning studies; $40,000 for short-term technical assistance to state prison industries; and $40,000 for administration.

Project Contact: The BJA contact is Nicholas Demos at 202/272–4605.

Subpart V—Information Systems and Miscellaneous Projects

Program Title: Training and Demonstration Center/Computer Laboratory.

Purpose: This continuation award will provide for the continuing development and implementation of the National Computer Laboratory and Training Center for the Eastern United States. More specifically, this award will focus on one or more of the following: Demonstration of specific, operational micro-technology systems; the provision of specific training programs; the provision of specific technical assistance.

Grant Period: The grant period will be 12 months from May 1, 1988 through April 30, 1989.

Award Amount: A supplemental Award will be negotiated in an amount up to $200,000 to SEARCH Group, Inc. and the National Criminal Justice Statistics Association.

Project Contact: The BJA contact is R. John Gregrich at 202/272–4601.

Project Title: Drug Abuse Resistance Education (DARE) Regional Training Centers.

Purpose: This project will meet the demand for training and technical assistance in the approved DARE curriculum for police officers and educational personnel. It will provide related on-site technical assistance and documentation to agencies replicating the DARE program. It will transfer the concept of the certified DARE program to additional state and local jurisdictions.

Grant Period: The grants will be limited to 12 months each, from June 1, 1988 through May 30, 1989.

Award Amounts: The total amount available for the program is $500,000. There will be four or more training sites funded, with a maximum award of $125,000 per site.

Eligibility Criteria: Sites will be selected competitively in accordance with published criteria.

Project Contact: The BJA contact is Dorothy L. Everett at 202/272–4604.

Project Title: Restitution by Juvenile Offenders-Technical Assistance and Training.

Purpose: This continuation award will provide for information, training and technical assistance to block grant projects for restitution programs that deal with serious juvenile offenders. The overall program objectives are to improve and expand the use of restitution as a juvenile justice disposition, to evaluate programs to determine the most effective structures and components, and to upgrade programs based on current knowledge.

Grant Period: The grant period will be limited to 12 months from March 1, 1988 through February 28, 1989.

Award Amount: A supplemental Award will be negotiated with the Pacific Institute for Research and Evaluation in an amount up to $100,000.

Eligibility Criteria: This is a continuation award.

Project Contact: The BJA contact is Dorothy L. Everett at 202/272–4604.

Subpart VI—Victims

Program title: National Victims Resource Center.

Purpose: The purpose of this project is to continue the collection and maintenance of data collected from grantees funded under the Victims of Crime Act of 1984.

The project will also continue clearinghouse services on victims assistance and compensation programs, victim advocacy groups, and printed information for and about victims of crime. These materials will be available to assist groups and individuals who need information to augment or implement programs which help victims.

Grant period: The period of award is 12 months.

Award amount: An award to be made by the National Institute of Justice will include transferred BJA funds totalling $100,000. This award will be made to the existing contractor, Aspen Systems Corporation.

Project contact: The contact is Duane Ragan, Office for Victims of Crime 202/724–5947.

Program title: Family Violence Prevention.

Purpose: The purpose of this award is to continue the work of the Task Force on Families in Crisis (TFFC), the current grantee. The project will continue the efforts of the grantee by educating and activating segments of the population which have not been previously involved in the issue of family violence prevention. The project will continue to develop community plans to strengthen families, and to provide public education and awareness about the dynamics of family violence and effective methods of early intervention and prevention.

Grant period: The period of award is 12 months.

Eligibility criteria: The award with the Task Force on Families in Crisis will be continued.

Award amount: The award to be made by the Office for Victims of Crime will be for $150,000.

Project contact: The contact is Susan Hay, Office for Victims of Crime 202/724-5983.

Program title: Technical Assistance for BJA Block Grant Victim Projects.

Purpose: This continuation will provide technical assistance to support the development and implementation of criminal justice programs and projects which provide services to victims of crime.

Grant period: The period of award will be 12 months.

Eligibility criteria: The award with the National Organization for Victim Assistance (N.O.V.A.) will be continued.

Award amount: The award will be for $250,000.

Project contact: The BJA contact is John Veen 202/272-4601.

Program title: Sexual Assault Awareness Training.

Purpose: The purpose of this award is to increase public awareness about the serial violent sexual offender and to reduce the opportunity of falling victim to a violent assault.

Grant period: The period of award is 12 months.

Eligibility criteria: The award will be made to the General Federation of Women's Clubs which will work with the Federal Bureau of Investigation National Center for the Analysis of Violent Crime.

Award amount: The award to be made by the Office for Victims of Crimes will be for $35,000.

Project contact: The contact is Mario Gaboury, Office for Victims of Crime 202/724-5947.

Program title: Law Enforcement Victim Assistance.

Purpose: The purpose of this project is to continue the work of the National organization for Black Law Enforcement Executives (N.O.B.L.E.), the current grantee. The grantee will continue to provide assistance to metropolitan police departments in developing and implementing structured programs to improve services to urban victims of crime. The grantee will continue to work with the police departments already participating in the project and will begin to work with additional police departments.

Grant period: The period of award is 12 months.

Eligibility criteria: The project with the National Organization for Black Law Enforcement Executives (N.O.B.L.E.) will be continued.

Award Amount: An award to be made by the Office for Victims of Crime will include transferred BJA funds totalling $15,000.

Project Contact: The contact is Susan Stanley, Office for Victims of Crime, 202/272-6500.

Subpart VII—Crime Prevention

Program Title: National Crime Prevention Campaign.

Purpose: This program will develop and disseminate crime prevention materials through public service advertising for T.V., radio, and newsprint; provide technical assistance and training; continue a clearinghouse for storage and dissemination of crime prevention materials to the public; and conduct workshops and local/national demonstration programs.

Through a BJA/National Crime Prevention Council Cooperative agreement, the following objectives will be achieved: Support for the National "McGruff" Campaign; "How to" Kits, newsletters, monographs, and booklets; technical assistance to BHA crime prevention block grant recipients, state crime prevention associations and program members, coalition members, and citizens seeking advice and assistance. Assistance will be provided through a National Resource Library, a National Computer Center, comprehensive package of crime prevention materials, topical workshops and seminars, and crime prevention curriculum assistance.

An additional element of this program is the continuation and expansion of the joint effort between the Bureau of Justice Assistance, the National Crime Prevention Council and Drug Enforcement Administration which began in 1987. Included in this element is demand reduction training and technical assistance to DEA field agents, "Sport Super Star" public service announcements, and assistance in DEA sponsored drug rallies.

Grant Period: 12 months—October 1, 1988-September 30, 1989.

Eligibility Criteria: The cooperative agreement with the National Crime Prevention Council is being continued.

Award Amount: $1,700,000.

Project Contact: The BJA contact is Ronald M. Steger, Director, Community Crime Prevention Programs, 202/724-8374.

Program Title: Congress of the National Black Churches Anti-Drug Program.

Purpose: Planning is currently underway for the second phase of a projected 30 month effort by the Congress of National Black Churches to implement a community capacity building land mobilization program with 15 to 25 cities. This program will address the problems of drug abuse within the black community, and develop strategies for action programs within the target cities. The objective is to facilitate community involvement with criminal justice agencies and other traditional service providing agencies and organizations to fight drug abuse and drug crime through both supply side and demand side strategies. The local black churches of the target communities would serve as the catalyst for project implementation.

Grant Period: The proposed project period would be twelve months.

Award Amount: This project is currently in the planning stages with staff of the Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Bureau's contribution to this program is $250,000.

Project Contact: The BJA contact is Luke G. Galant at 202/272-4601.

George A. Luciano.

Director, Bureau of Justice Assistance.

[FR Doc. 88-3481 Filed 2-18-88; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Bloomfield Professional Center Pharmacy; Revocation of Registration

This proceeding before the Drug Enforcement Administration (DEA) was initiated by an Order to Show Cause issued December 14, 1987, proposing to revoke the Drug Enforcement Administration Certificate of Registration, AB9267522, of Bloomfield Professional Center Pharmacy (Respondent), of Bloomfield Hills, Michigan. The Order to Show Cause alleged the continued registration of the pharmacy would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4).

Respondent, by letter dated December 31, 1987, waived its right to a hearing and requested "an adjournment of these proceedings for 60 days" pending transfer of the pharmacy to a new owner. Based upon Respondent's waiver of its opportunity for a hearing on the issues raised in the Order to Show Cause, the Administrator issues this final order on the record as it appears pursuant to 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that in December 1986 the DEA conducted an audit at the Bloomfield pharmacy for the controlled substances Tylenol #4, Talwin and Doridan .5mg. The audit covered a period from May 1985 to December 1986. The audit revealed unexplained shortages of more than

200,000 dosage units of Tylenol #4 and Talwin and over 23,000 dosage units of Doridan .5mg. Bloomfield Pharmacy could not account for more than 400,000 dosage units of controlled substances during the eighteen-month audit period. The Administrator finds that the diversion of these controlled substances is not consistent with the high standards of honesty and integrity to which we hold pharmacists accountable. The continued registration of Bloomfield pharmacy is, therefore, not in the public interest.

On December 17, 1986, in the United States District Court for the Eastern District of Michigan, John H. McClellan, R.Ph., President and registered pharmacist of Respondent pharmacy, was convicted, after entering a plea of guilty, to one count of distribution of Talwin, a Schedule III controlled substance, in violation of 21 U.S.C. 841(a)(1). This violation constitutes a felony offense relating to controlled substances. 21 U.S.C. 824(a)(2).

Pursuant to 21 U.S.C. 824(a), a certificate of registration issued under 21 U.S.C. 823(f) may be revoked upon a finding that the registrant has been convicted of a felony relating to controlled substances. The Drug Enforcement Administration has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer, or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. *See Yazid M. Mahadi, d/b/a Gresham Road Pharmacy,* Docket No. 86-31, 51 FR 27267 (1986); *Ozie T. Faison, d/b/a Smith Discount Drugs,* Docket No. 85-37, 51 FR 16403 (1986); *Coolidge Drugs, d/b/a The Apothecary,* 50 FR 31785 (1985); and *K&B Successors, Inc.,* Docket No. 82-15, 49 FR 34588 (1984). Such conviction provides the lawful grounds for the revocation of a corporate registrant's registration, and for the denial of any pending applications for renewal of that registration. 21 U.S.C. 824(a)(2) and 823(f)(3). *See also Daniel Levine, t/a Gladstone Pharmacy,* Docket No. 84-20, 50 FR 32651 (1985); *AG Pharmacy Inc.,* Docket No. 79-12, 45 FR 6868 (1980); and *Serling Drug Co.* Docket No. 74-12, 40 FR 11918 (1975).

Accordingly, having determined that the felony conviction of Respondent pharmacy's president and registered pharmacist, and the excessive unexplained shortages of controlled substances revealed during the audit period, constitute sufficient grounds for the revocation of the pharmacy's registration, the Administrator of the Drug Enforcement Administration concludes that such registration should be revoked. Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator orders that DEA Certificate of Registration AB9267522, previously issued to Bloomfield Professional Center Pharmacy, be, and it hereby is revoked. It is further ordered that any pending applications for renewal of Respondent pharmacy's registration be, and they hereby are, denied.

This order is effective March 21, 1988.

John C. Lawn,
Administrator.

Date: February 9, 1988.

[FR Doc. 88-3380 Filed 2-17-88; 8:45 am]

BILLING CODE 4410-09-M

Theodore N. Lenczyk, D.D.S.; Revocation of Registration

On June 23, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued on Order to Show Cause to Theodore N. Lenczyk, D.D.S. (Respondent) of 1100 Main Street, Newington, Connecticut 06111, proposing to revoke DEA Certificate of Registration AL1748663 and deny any pending applications for renewal of such registration. The statutory basis for the proposed action was that the continued registration of Respondent would be inconsistent with the public interest. The factor which evidenced that the continued registration of Respondent would be inconsistent with the public interest included that: (1) Respondent failed to keep complete and accurate records of the receipt, inventory, and dispensing of controlled substances; (2) Respondent failed to notify DEA of the theft or loss of controlled substances as required by 21 CFR 1301.76(b); (3) Respondent failed to provide proper physical security for storage of controlled substances as required by 21 CFR 1301.75; and (4) Respondent's Connecticut controlled substances registration was suspended for a period of six months on July 11, 1986, for failure to maintain effective controls against diversion of controlled substances into other than duly authorized legitimate medical, scientific or commercial channels in violation of section 21a-322(3) of the Connecticut General Statutes.

By letter dated July 6, 1987, Respondent waived his opportunity for a hearing on the issues raised in the Order to Show Cause. Instead, Respondent opted to submit copies of motions, memoranda, transcripts and correspondence from the proceedings before the Department of Consumer Protection, State of Connecticut. Therefore, the Administrator finds that Dr. Lenczyk has waived his opportunity for a hearing. 21 CFR 1301.54(c). The Administrator enters this final order based on the record as it appears, which includes all documents submitted by Respondent. 21 CFR 1301.54(c), 1301.54(d) and 1301.54(e).

The Administrator finds that on or about February 24, 1984, the Drug Control Division, Department of Consumer Protection, State of Connecticut, received DEA Form 222 indicating that a company had shipped the following Schedule II controlled substances to Respondent: 5,000 pentobarbital capsules, 5,000 secobarbital capsules and 500 Percodan tablets in October 1983. After receiving this order form, the Drug Control Division initiated an investigation. Respondent had previously ordered and received 3,000 pentobarbital and 3,000 secobarbital capsules in February 1983.

On March 5, 1984, a detective with the Newington Police Department advised the Drug Control Division that on March 4, 1984, Respondent had reported a burglary at his office of 19,000 pentobarbital and secobarbital capsules and 409 Percodan tablets.

After Respondent filed the burglary complaint, the police requested that he make available all controlled drug receipts and records. Respondent did not comply with this request. As a result of Respondent's noncompliance, search warrants for both Respondent's residence and office were executed by the Department of Consumer Protection and the Newington Police Department on March 21, 1984.

The search of Respondent's residence uncovered 2,000 secobarbital capsules and 1,000 phenobarbital capsules. The controlled substances were found in drawers, closets and in small envelopes in the lining of Respondent's sport coats hanging in a closet. Additionally, an ashtray containing suspected marijuana, a small vial containing marijuana seeds, two marijuana pipes and three packs of rolling paper were seized from Respondent's home.

The search of Respondent's office uncovered 3,000 phenobarbital tablets, 500 Percodan tablets and 50 Darvon-N capsules. The controlled substances were found in unsecured, unlocked areas. No safe or other means of securing controlling substances was discovered at Respondent's office.

Respondent was arrested on March 22, 1984, and charged with the following: Falsely reporting an incident; fabricating or tampering with physical evidence; possession of controlled substances with intent to sell; conspiracy to possess controlled substances with intent to sell; possession of controlled substances; and conspiracy to possess controlled substances. On October 8, 1985, the state's attorney's office nolled the above charges.

On May 29, 1985, a compliance hearing was held before the Department of Consumer Protection, State of Connecticut, to determine whether Respondent either negligently or intentionally failed to follow the consumer protection regulations relative to the keeping of records regarding controlled substances and storage dispensation. The hearing officer recommended that the case be brought to a full hearing.

On September 16, 1985, an administrative complaint was issued charging Respondent with violations of the General Statutes of Connecticut pertaining to controlled substances registration.

An administration hearing was held by the Department of Consumer Protection on October 31, 1985, and November 13, 1985. A proposed decision was rendered by the hearing officer on March 18, 1986. Respondent filed his exceptions on April 29, 1986. Oral argument was heard by the Commissioner of Consumer Protection on June 13, 1986.

The Commissioner of Consumer Protection rendered her Decision and Final Order on July 11, 1986. The Commissioner found that Respondent failed to maintain effective controls against diversion of controlled substances into other than legitimate medical, scientific, or commercial channels in violation of section 21a-322(3) of the Connecticut General Statutes. Consequently, Respondent's controlled substance registration was suspended for a period of six months.

Respondent submitted a letter dated July 6, 1987, in which he waived his right to a hearing, and indicated that he wished to retain the option of submitting additional documents. Respondent was advised by letter dated July 15, 1987, that he should submit any further documentation which he wished the Administrator to consider. On July 27, 1987, Dr. Lenczyk submitted documentation with a note written on the Government's July 15, 1987, letter. In this note, Respondent stated that the State of Connecticut issued him a state controlled substance registration on January 5, 1987. He also indicated that the real criminal in this "episode" was a corrupt employee of the State of Connecticut. Respondent attached several complaints which he filed in the United States District Court for the District of Connecticut against various individuals associated with the Connecticut Department of Consumer Protection.

The Administrator finds that these civil allegations are not relevant to the matter of whether Respondent should be registered with DEA. The facts upon which the Administrator relies have been substantiated by documentation from several agencies. Respondent has not presented evidence to contradict these facts except to say that the statements are false. Respondent ordered excessively large quantities of barbiturates and failed to keep any records, other than receipts, of these substances. Additionally, Respondent falsely reported the theft of substances later recovered from his home.

The Administrator concludes that the continued registration of Respondent would be inconsistent with the public interest. The Administrator finds, and Respondent admitted, that he failed to keep complete and accurate records of the receipt, inventory, and dispensing of controlled substances. Respondent also admitted that he failed to provide proper physical security for the storage of controlled substances as required by 21 CFR 1301.75. It is Respondent's contention that he is not culpable for these admitted violations because he was unaware that he was violating any regulations or statutes. Respondent's argument is unreasonable. Ignorance of the law is no excuse.

The Administrator also finds that Respondent failed to notify DEA of the theft of controlled substances as required by 21 CFR 1301.76.

Based on the seriousness of the admitted wrongdoings on the part of Respondent, the absence of any remorse by Respondent for his actions, and the endangerment to the public health, safety, and welfare, the Administrator finds that it is not in the public interest for Respondent to have a DEA registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration AL1748663, previously issued to Theodore N. Lenczyk, D.D.S., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal be, and they hereby are, denied.

This order is effective March 21, 1988.

John C. Lawn,

Administrator.

Dated: February 9, 1988.

[FR Doc. 88-3379 Filed 2-17-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, Time and Place: March 8, 1988, 9:30 a.m., Room S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC, this 10th day of February, 1988.

Eugene Lawson,

Deputy Under Secretary, International Affairs.

[FR Doc. 88-3461 Filed 2-17-88; 8:45 am]

BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-87-194-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard; Correction

This notice amends a petition for modification of application of mandatory standard to add information to the document published in the **Federal Register** on September 11, 1987 (52 FR 34434). This correction is necessary to add an additional mine for which modification is sought and which was erroneously omitted from the earlier **Federal Register** notice. The

petition is amended to read as follows: Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Open Fork Mine (I.D. No. 44-00267), and its Maple House Branch Mine (I.D. No. 44-04937) both located in Dickenson County, Virginia.

Request for Comments

Persons interested in this amendment to the petition for modification 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 21, 1988. Copies of the amendment and the original petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 11, 1988.

[FR Doc. 88-3462 Filed 2-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-264-C]

Cumberland Valley Contractors, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cumberland Valley Contractors, Inc., P.O. Box 1329, Middlesboro, Kentucky 40965 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its CV No. 1 Mine (I.D. No. 15-15964) located in Bell County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all haulage equipment be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment.

2. Due to the maining pattern it is necessary to make a 90 degree turn on the track. A six foot long tow bar is presently being used between the railrunner and the flat car and maneuvering around the turn is extremely difficult. Petitioner states that the turn would be virtually impossible with automatic couplers and derailments would occur. The supply person would then spend a lot of time rerailing the flat car, exposing this person to hazardous conditions.

3. Petitioner further states that the car is always coupled or uncoupled on the surface with a positive stop provided, the flat car is never pulled along with the mantrip, and that once the flat car is coupled to the railrunner it is not uncoupled until the end of the shift.

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 21, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 10, 1988.

[FR Doc. 87-3463 Filed 2-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-305-C]

H.A.R.-M.A.T. Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

H.A.R.-M.A.T. Coal Company, Inc., 217 Main Street, Oak Hill, West Virginia 25901 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 46-01863) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The top of the mine is massive sandstone from 50 to 80 feet thick, with a substantial amount of rolls in the top and bottom.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety because of the rolls in the top and bottom, the cabs or canopies would knock out the roof bolts, headers and top.

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 the office on or before March 21, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: February 10, 1988.

[FR Doc. 88-3464 Filed 2-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-38-M]

Weller and Son Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Weller and Son Mining Company, 291 Highway 20 E., Tonasket, Washington 98855 has filed a petition to modify the application of 30 CFR 56.9088 (roll over protective structures, ROPS) to its Weller Pit (I.D. No. 45-03043) located in Okanogan County, Washington. 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 roll-over protective structures (ROPS) be installed on all self-propelled track-type or wheeled front-end loaders.

2. As an alternate method petitioner proposes to have the ROPS built by a certified welder using quality material for construction, by using an already installed ROPS for direction, and by attaching it to the factory installed mounts already on the machine.

3. In further support of this request, petitioner states that the 1970 Hough Loader is used primarily on level terrain and is seldom used on steep slopes. The function of the loader is to feed the rock crushing plant and to load material into the trucks.

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 21, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: February 11, 1988.

[FR Doc. 88-3465 Filed 2-17-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-16]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATE AND TIME: March 1, 1988, 9 a.m. to 5 p.m., and March 2, 1988, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 7002, Federal Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code F, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of 24 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, space station, and history, as they relate to NASA's activities.

This meeting will be closed to the public from 8:30 a.m. to 9:30 a.m. on March 2 for a discussion of the qualifications of candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open—except for a closed session as noted in the agenda below.

Agenda:

March 1, 1988

9 a.m.—Introductory Remarks
9:10 a.m.—Status of Space Transportation System Recovery
10 a.m.—In-Space Experiments Program
11 a.m.—Program Status Reports
1 p.m.—Review of Fiscal Year 1988 and 1989 Budget Decisions and Program Proposals
1:45 p.m.—National Space Policy Statements
2:30 p.m.—Major Program Implications
4 p.m.—Council Discussion
5 p.m.—Adjourn.

March 2, 1988

8:30 a.m.—Closed Session
9:30 a.m.—Reports of NAC Committees
11 a.m.—University Space Engineering Research Program
1 p.m.—Other Business
3 p.m.—Adjourn.

February 11, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-3411 Filed 2-17-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice 88-18]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, NASA announces a forthcoming meeting of the NASA Advisory Council, Informal Space Life Sciences Committee.

DATE AND TIME: March 11, 1988, 9 a.m. to 3:30 p.m.

ADDRESS: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Dr. Maurice Averner, Code EBR, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1551).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Space Life Sciences Committee was established to formulate a comprehensive strategic plan for space life sciences, identify essential efforts with appropriately phased objectives, and define efficient implementing strategies to pursue these goals. The Committee, chaired by Dr. Frederick, C. Robbins, has 18 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants).

Type of Meeting: Open.

Agenda:

March 11, 1988

9 a.m.—Opening Remarks
9:15 a.m.—Review Draft of Final Report
3:30 p.m.—Adjourn.

February 11, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-3412 Filed 2-17-88; 8:45 am]

BILLING CODE 7510-01-M

[NOTICE No. 88-17]

NASA Advisory Council (NAC), Life Sciences Advisory Committee (LSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee.

DATE AND TIME: March 3, 1988, 8:30 a.m. to 9 p.m. and March 4, 1988, 8:30 a.m. to 4:30 p.m.

ADDRESS: Holiday Inn-Capitol, 550 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn D. Griffiths, Code EBF, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1545).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee provides advice on the coordination of NASA's life sciences research program. It assists in the long-range planning of space life sciences research and coordinated ground-based research. The committee will meet to discuss the Office of Space Science and Applications (OSSA)

strategic planning status, implementation, and long range goals. The group is chaired by Dr. Harry C. Holloway and is composed of 16 members. The meeting will be open to the public up to the capacity of the room (approximately 45 people including members of the committee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the newly appointed chairman.

Type of Meeting: Open.

Agenda:

March 3, 1988

8:30 a.m.—Chairman's Remarks
9 a.m.—OSSA Program Update
1:30 p.m.—OSSA Strategic Planning
3:45 p.m.—Strategic Plan Implementation: Life Sciences
9 p.m.—Adjourn.

March 4, 1988

8:30 a.m.—Strategic Planning: Space Station
1 p.m.—Strategic Planning: Long-Range Goals
2:30 p.m.—Strategic Planning: LSAC Response
4:30 p.m.—Adjourn.

February 11, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-3413 Filed 2-17-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Closed Meeting

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held Tuesday, April 26, 1988. The meeting will be held at the MITRE Corporation, 7525 Colshire Drive, McLean, VA. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.
B. Administrative remarks.
C. Briefings on industry and government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

Robert V. Downey,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 88-3466 Filed 2-17-88; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Facilities Center Program; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biological Facilities Center Program.

Date and Time: Monday, March 7, 1988 from 8:30 am to 5:00 p.m. Tuesday, March 8, 1988 from 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G Street NW. Washington, DC 20037, Rooms 540, 540B, 543 and 523.

Type of Meeting: Closed.

Contact Person: Dr. Sonja Sperlich, Associate Program Director, Biological Instrumentation, Room 325E, National Science Foundation, Washington, DC 20550 Telephone: 202/357-7652.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research instrumentation.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-3406 Filed 2-17-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Polar Programs; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs

Date and Time:

March 9, 1988, 8:30 a.m.-5:00 p.m.
March 10, 1988, 8:30 a.m.-5:30 p.m.
March 11, 1988, 8:30 a.m.-12:00 noon.

Place: The Diplomat Conference Room, State Plaza Hotel, 2116 F. Street NW., Washington, DC 20037

Type of Meeting:

Closed

March 9, 1988, 1:30 p.m.-5:00 p.m.

Open

March 9, 1988, 8:30 a.m.-12:00 noon
March 10, 1988, 8:30 a.m.-5:30 p.m.
March 11, 1988, 8:30 a.m.-12:00 noon.

Contact Person: Dr. Peter E. Wilkniss, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, DC 20550. Telephone: 202/357-7766.

Purpose of Committee: Services to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on polar operations support, budgetary planning, polar coordination and information, and science programs.

Agenda:

March 9, 1988

8:30 a.m.-9:30 a.m. Welcome and Introductions, Administrative Announcements
9:45 a.m.-12:00 noon USAP Safety Review Status
1:30 p.m.-5:00 p.m. Peer Oversight Review of Polar Atmospheric Sciences.

March 10, 1988

8:30 a.m.-9:00 a.m. Peer Oversight Review of Antarctic Bibliography
9:00 a.m.-9:30 a.m. Peer Oversight Review Siple Station
9:45 a.m.-10:15 a.m. DPP Response to DAC in July 1987 Report
10:15 a.m.-12:00 noon Director's Remarks The Geosciences Perspective
1:00 p.m.-1:30 p.m. NSF Plans to Implement the NSB Report on Role of NSF in Polar Regions
1:30 p.m.-2:00 p.m. Status Report on ARPA, IARPCC and ARC
2:15 p.m.-5:30 p.m. Discussion of 1:00 and 1:30 items and the DAC Role in same as well as NSF Polar Science Long Range Plan
5:30 p.m. Adjourn.

March 11, 1988

8:30 a.m.-12:00 noon Discussion of DAC Reports, Tasking, Schedule of Meetings, Membership, and Work Plan

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed

at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-3407 Filed 2-17-88; 8:45 am]

BILLING CODE 7555-01-M

United States Antarctic Program Safety Review Panel; Meeting

The National Science Foundation announces the following meeting:

Name: United States Antarctic Program (USAP) Safety Review Panel.

Date and Time: March 10, 11, 1988: 9:00 a.m. to 5:00 p.m. each day.

Place: The Keystone Resort Conference Center, Keystone, Colorado 80435.

Type of Meeting: Open.

Contact Person: Mr. Russell L. Schweickart, Chairman USAP Safety Review Panel, Room H-217 National Science Foundation, Washington, DC 20550, Telephone (202) 634-4892.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: Review safety issues as they relate to the U.S. presence in Antarctica.

Agenda: Review of Panel's recent trips to Antarctica and discussion of Panel's report on safety issues.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-3408 Filed 2-17-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a proposed change to Technical Specification Section 3.5.1 concerning the Automatic Depressurization System (ADS) accumulator low pressure alarm system. Section 3/4.5, EMERGENCY CORE COOLING SYSTEM, contains Surveillance Requirements (4.5.1.e.1 and 4.5.1.e.4) for the ADS accumulator low pressure alarm system. However, no ACTION is currently included in the Limiting Condition for Operation section of Specification 3.5.1 which addresses the alarm(s). The ACTIONs specified in Specification 3.5.1 only address inoperability of the ADS valves themselves. Inoperability of an ADS accumulator low pressure alarm system does not necessarily constitute inoperability of the associated ADS valves, especially since the Clinton as-built design includes other redundant instrumentation that can be used to monitor accumulator pressure. Thus a change to Specification 3.5.1 is proposed which consists of an ACTION to be taken when an ADS accumulator low pressure alarm system instrumentation channel has been declared inoperable.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulation.

by March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of of the poetitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number: date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel Rockville, U.S. Nuclear Regulatory Commission, Washington,

DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October, 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated: at Rockville, Maryland this 10th day of February 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3439 Filed 2-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment includes two proposed changes to Technical Specification Sections 4.4.3.2.1.a and 4.4.3.2.1.b and Bases 3/4.4.3.1 concerning reactor coolant system leakage. The first proposed change would modify Specification 4.4.3.2.1.b to reflect the fact that the drywell floor and equipment drain sump leak detection system instrumentation does not include direct quantitative indication of sump level as the current Technical Specification implies. The second proposed change would add a note to Specification 4.4.3.2.1.a to indicate that the drywell atmospheric particulate and gaseous radioactivity monitoring system does not provide a means of quantifying leakage for determining that leakage is within the limits specified in the Limiting Condition for Operation (3.4.3.2). Related changes to Bases 3/4.4.3.1. are also proposed.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petition in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petition's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also indentify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missiouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.614(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document

Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 10th day of February 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3440 Filed 2-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a proposal to delete Technical Specification Section 3/4.3.8, "Turbine Overspeed Protection System". Deletion of the Specification would not relieve Clinton of its commitments to continue inspecting and testing the applicable valves and instrumentation as stated in FSAR Section 10.2.3.6.

Priot to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.174, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 10th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3441 Filed 2-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment includes three proposed changes to Technical

Specification Sections 3.6.1.8, 3.6.2.7, 4.6.1.8.2 and 4.6.2.7.4, Table 3.6.4–1, and Bases 3/4.6.2.7 and 3/4.6.1.8 concerning the containment building and drywell vent and purge systems. The first proposed change consists of those changes required to delete the OPERABILITY and surveillance requirements associated with 50° stops installed for the VR/VQ* system containment isolation valves on the basis that the 50° stops will now be considered to be a part of the permanent design for these valves. The second proposed change would insert footnotes into the Limiting Conditions for Operation and applicable surveillance requirements associated with Specifications 3.6.1.8 and 3.6.2.7 to exclude the time when valves are opened for performing stroke-time testing from the cumulative system operation time limited by the Limiting Conditions for Operation. The third change proposed would extend the application of Note "(a)" in Table 3.6.4–1 of the Technical Specifications to include specific VR/VQ containment isolation valves which need to be opened while conducting certain local leak rate tests.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 10th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–3442 Filed 2–17–88; 8:45 am]

BILLING CODE 7590–01–M.

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment includes four proposed changes to Technical Specification Tables 3.3.7.5–1 and 4.3.7.5–1 concerning accident monitoring instrumentation. The first proposed change consists of exceptions to Specification 3.0.4 which would be inserted into the ACTIONs associated with Table 3.3.7.5–1. These exceptions would permit entry into OPERATIONAL CONDITIONS 1, 2 and 3 with an

accident montoring instrumentation channel(s) inoperable, as provided in the individual ACTION statements. The second proposed change corrects a typographical error identified on page 3/4 3-87 (Table 3.3.7.5-1) for the "†" note for the suppression pool water temperature sensors which refers to Specification "3.5.3.1". It should refer instead to Specification "3.6.3.1" where requirements for the other suppression pool temperature sensors are specified. The third proposed change resolves an inconsistency existing between ACTION 81 associated with Table 3.3.7.5-1 and the general ACTION and Limiting Condition for Operation specified under Specification 3.3.7.5. The fourth proposed change would delete the safety/relief valve acoustic monitors from the Accident Monitoring Instrumentation on the basis that Specifications 3.3.7.5 and 4.3.7.5 are redundant to the requirements in Specifications 3.4.2.1 and 4.4.2.1.1.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a requst for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceedig; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to itervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to interevene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commisison's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** Notice. A copy of the petition should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Ilinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland this 10th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects III, IV, V and Special Projects.

[FR Doc. 88-3443 Filed 2-17-88, 8:45 am]

BILLING CODE 7590-01M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

The amendment consists of a proposed change to Technical Specification Section 4.8.1.1.2 concerning diesel generator reliability. One item of Generic Letter 85-15, PROPOSED STAFF ACTIONS TO IMPROVE AND MAINTAIN DIESEL GENERATOR RELIABILITY, is directed towards reducing the number of cold fast-start surveillance tests to prevent premature diesel engine degradation. The Generic Letter included an example of an acceptable Technical Specification which would reduce the frequency of fast-start tests of diesel generators from ambient conditions. This example

inserted an asterisk (*) is those surveillance requirements involving a diesel start and was accompanied by a footnote which limited the number of diesel generator starts from ambient conditions to at least once per 184 days. It also allowed the remaining engine starts to be preceded by an engine prelube/warmup and to include gradual loading as recommended by the manufacturer. Thus changes are proposed which consist of inserting the asterisk (*) into Specification 4.8.1.1.2.a.5 and revising the note associated with the asterisk so that it refers to the 90-second loading and synchronization required by Specification 4.8.1.1.2.a.5.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person who interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing of petition for leave to intevene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** Notice. A copy of the petition should also be sent to the Office of the General Counsel Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room 11717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland this 10th day of February 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3444 Filed 2-17-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-16263; 812-6562]

American Charter Funding Corp., et al.; Application

February 10, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: American Charter Funding Corporation ("Depositor"), and one or more trusts ("Issuer Trusts") that the Depositor may establish (Depositor and Issuer Trusts collectively are referred to hereinafter as "Applicant").

Summary of Application: Applicant seeks a conditional order of exemption from all provisions of the 1940 Act in connection with the issuance of collateralized mortgage obligations and the sale of residual equity interests.

Relevant 1940 Act Sections: Exemption requested under section 6(c).

Filing Dates: The application was filed on December 16, 1986, and amended on July 2, September 4, October 26, 1987, January 11, 1988, and a technical amendment to be filed during the notice period.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant, 206 South 13th Street, Lincoln, Nebraska 68508.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Carson G. Frailey at (202) 272-3015, or Special Counsel Richard Pfordte at (202) 272-2811, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Depositor, a Delaware corporation, is a direct, wholly-owned, limited purpose finance subsidiary of American Charter Federal Savings and Loan Association ("American Charter"), a federally chartered mutal savings and loan association. The Depositor was organized to facilitate the financing of mortgage loans, both through the direct issuance of one or more series ("Series") of collateralized mortgage obligations ("Bonds"), and by serving as the depositor of one or more trusts ("Issuer Trusts") to issue Series of Bonds. Applicant may also sell beneficial interests in the Depositor and Issuer Trusts. The Depositor will not engage in any business or investment activity unrelated to these purposes. Both the Depositor and the Issuer Trusts will invest in certain mortgage certificates, as hereinafter defined, and those certificates will be used to collateralize the Bonds.

2. Issuer Trusts will be established for certain limited purposes, including issuing a Series of Bonds; each Issuer Trust will be established under separate deposit trust agreement ("Deposit Trust Agreement") between the Depositor, acting as depositor, and a bank or trust company, or other fiduciary, acting as owner-trustee ("Owner Trustee").

3. Each Series of Bonds may consist of one or more classes, as described in the text of the application, and will be issued under the terms of a trust indenture (the "Indenture") between the Depositor, or the Owner Trustee in the case of an Issuer Trust, and an independent trustee ("Bond Trustee"), as supplemented by one or more Series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

4. In the case of each Series of Bonds: (a) Applicant will hold no substantial assets other than mortgage certificates;[1] (b) the Bonds will be secured by Mortgage Certificates having a collateral value determined under the related Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned to the Bond Trustee and will be subject to the lien of the related Indenture.

5. In addition to the issuance and sale of the Bonds, Applicant may sell residual interests representing excess cash flows to a limited number, in no event more than 100, of sophisticated institutional investors in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act"), under section 4(2) thereof. Such institutional investors may include one or more banks, savings and loan associations, insurance companies and pension plans, or other investors, having prior experience in making investments in mortgage-related securities, or real estate ("Eligible Institutions"). Each Eligible Institution will be required to represent that it is purchasing such residual interests for investment purposes and not for distribution and that it will hold such residual interests in its own name and not as nominee for undisclosed investors. In addition, the Deposit Trust Agreement relating to any Issuer Trust, and, in the case of Bonds issued by the Depositor, the Indenture, will further prohibit the transfer or any certificates for such residual interests is there would be more than 100 owners of such certificates at any time.

6. Neither the holders of the residual interests of the Applicant ("Owners"), the Owner Trustee, if any, nor the Bond Trustee will be able to impair the security afforded by the Mortgage Certificates to the holders of the Bonds. That is, without the consent of each Bondholder to be affected, none of the aforementioned parties will be able to: (1) Change the stated maturity on the bonds; (2) reduce the principle amount, or the rate of interest, on the Bonds; (3) change the priority of payment on any class of any Series of Bonds; (4) impair, or adversely affect, the Mortgage Certificates securing a Series of Bonds; (5) permit the creation of a lien ranking prior to, or on a parity with, the lien of the related Indenture with respect to the Mortgage Certificates; or (6) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

7. The sale of residual interests will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in the collection account, or in any reserve fund created pursuant to the Indenture, to support payments of principal and interest on the Bonds.

8. No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either the custodian or the statistical rating agency rating the Bonds. Neither the Applicant, nor the Owners, will be affiliated with the Bond Trustee.

9. The interests of the Bondholders will not be compromised, or impaired, by the ability of the Applicant to sell residual interests, nor will there be a conflict of interest between the Bondholders and the Owners because: (a) The collateral which initially will be pledged to secure the Bonds will not be speculative in nature, as it will consist solely of GNMA Certificates, FNMA Certificates, or FHLMC Certificates, which Mortgage Certificates are guaranteed as to timely payment of interest, and timely, or ultimate, payment of principal by each respective

[1] By definition, the certificates ("Mortgage Certificates") collateralizing the Bonds will consist of (1) "fully-modified" pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and (3) Guaranteed Mortgage Pass-Through Securities issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"). All or a portion of the Mortgage Certificates securing a Series of Bonds may be "partial pool" Mortgage Certificates. In addition to the Mortgage Certificates directly securing the Bonds, a Series may have additional collateral, including certain collection accounts and reserve funds as specified in the related Indenture, which, together with the Mortgage Certificates are collectively referred to hereinafter as "Mortgage Collateral."

agency; (b) the Bonds will only be issued provided an independent, nationally-recognized statistical rating agency has rated such Bonds in one of the two highest rating categories, which by definition means that the capacity of the issuing Applicant to repay principal and interest on the Bonds is extremely strong; (c) the Indenture subjects the Mortgage Collateral, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, thereof to a first priority, perfected security interest in the name of the Bond Trustee on behalf of the Bondholders [2]; and (d) the Owners will be entitled to receive current distributions representing the residual payments on the Mortgage Collateral from each Series in accordance with the terms of sale of such interests (with respect to an Issuer Trust, the applicable Deposit Trust Agreement), which distributions are analogous to dividends payable to a shareholder of a corporate issuer of collateralized mortgage obligations. Furthermore, with respect to any Series that does not elect to be treated as a "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, the Owners will be liable for the expenses, taxes and other liabilities of the issuer (other than the principal and interest on the Bonds) with respect to that Series to the extent not previously paid from the trust estate. The choice of the form of issuer for the Bonds and the identity of the Owners of the residual interests in such issuer, however, will not alter in any way the payments made to the Bondholders, which are payments governed by an instrument which will meet the requirements of the Trust Indenture Act of 1939.

10. The aggregate interests of the Owners in the Mortgage Collateral, and the expected returns earned by such Owners, will be far less than the payments made to Bondholders. Applicant does not intend to pledge as security for any Series, Mortgage Certificates with a collateral value which exceeds 110% of the aggregate principal amount of the related Bonds.

11. Applicant presently does not have nor does it presently intend to have, under the terms of its effective 1933 Act registration statement and related documents, the right to substitute new Mortgage Collateral for the Mortgage Collateral initially pledged to secure a Series. If in the future, Applicant should elect to have the right of substitution, such right would only apply to subsequent Series, and would be subject to the express conditions set forth herein. Furthermore, no such substitutions would be made unless the Mortgage Collateral to be substituted was substantially similar to the Mortgage Collateral then pledged under the related Indenture, and would provide cash flow that would not be less than the cash flow generated by the original Mortgage Collateral, and sufficient to satisfy the debt service requirements on the Bonds. Any such substitutions would be made only if the Bonds would continue to be rated in the rating category in which they were originally rated by the rating agency, or agencies, rating such Series of Bonds. Except to the extent permitted by the limited right to substitute Mortgage Collateral, as described above, it will not be possible for the Owners to alter the collateral initially pledged to secure a Series, and in no event will any right to substitute Mortgage Collateral result in a diminution in the value, or quality, thereof. Although it is possible that any Mortgage Collateral substituted for any initially pledged to secure a Series may have a different prepayment experience than the original Mortgage Collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Collateral will be determined by market conditions beyond the control of the Owners, which market conditions are likely to affect all Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the Owners are not likely to be greatly different from those of the Bondholders with respect to collateral prepayment experience; and (c) to the extent that it may be possible for the Owners of the residual interests to cause the substitution of Mortgage Collateral which has a different prepayment experience than the original, this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structure under which Bonds are issued by an entity that is a wholly-owned subsidiary. With respect to any Issuer Trust for which a limited right to substitution exists, due to the fact that there usually will be more than one Owner of the Issuer Trust, it appears less likely that the Owners will be able to agree on any desired substitution of Mortgage Collateral than if there were a single Owner who could unilaterally decide on the timing and execution of the substitution.

12. At the time of the deposit of the Mortgage Collateral with the Bond Trustee, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates pledged to secure the Bonds, absent a default, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of variable rate Bonds. Such Mortgage Collateral will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

13. For representations concernings variable rate bonds and REMIC election, see Applicant's conditions below.

14. For additional representations and conditions concerning classes of Bonds, certain optional and mandatory redemption features, and the application of "excess cash flow," see the application.

Applicant's Legal Conclusions

The requested order is necessary and appropriate in the public interest because: (a) The Applicant should not be deemed to be an entity to which the provisions of the 1940 Act were intended to be applied; (b) the Applicant may be unable to proceed with the activities proposed herein if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) Applicant's activities are intended to serve a recognized and critical public need; (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act, and thereafter by the Bond Trustee representing their interests under the Indenture; and (e) the residual interests, if any, in the Applicant will be held entirely by the Applicant, or offered only to Eligible Institutions through private placements.

[2] The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the issuing Applicant (and any Owner) until (i) the Bond Trustee has made the schedule payment of principal and interest on the Bonds, (ii) the Bond Trustee has received all fees currently owed to it, (iii) all amounts owed to any firm of independent accountants have been paid, and (iv) to the extent required by the related Indenture for a Series of Bonds, deposits have been made to certain reserve funds which will ultimately be used to make payments of principal and interest on the Bonds. With respect to any Issuer Trust, once amounts have been released from the lien of the Indenture, the Deposit Trust Agreement will provide that the Owner Trustee under Deposit Trust Agreement will have a lien superior to that of the Owners to the remaining cash flow.

Applicant's Conditions

Applicant agrees that if an order is granted, it will be expressly conditioned upon the following:

A. Conditions Relating to the Bonds

1. Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

2. The Bonds will be "mortgage-related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. The Mortgage Collateral directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates.

3. If new Mortgage Collateral is substituted, the substitute Mortgage Collateral will: (i) Be of equal or better quality than the Mortgage Collateral replaced; (ii) have similar payment terms and cash flow as the Mortgage Collateral replaced; (iii) be insured, or guranteed, to the same extent as the Mortgage Collateral replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates would, under any circumstances, not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Collateral. In no event could any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

4. All Mortgage Collateral will be held by a Bond Trustee, or on behalf of a Bond Trustee, by an independant custodian. Neither the Bond Trustee, nor the custodian, may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Bond Trustee will be provided with a first priority, perfected security, or lien, interest in and to all Mortgage Collateral.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally-recognized statistical rating agency that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. No less often than annually, an independent public accountant will audit the books and records of Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificates continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee.

B. Conditions Relating to Variable Rate Bonds

7. Each class of variable rate Bonds will have a set maximum interest rate (an interest rate cap).

8. At the time of the deposit of the Mortgage Collateral with the Bond Trustee, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates pledged to secure the Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of variable rate Bonds. Such Mortgage Collateral will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

C. Condition Relating to REMIC Election

9. The election by Application to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by Applicant. If Applicant elects to be treated as a REMIC, it will provide that all administrative fees and expenses in connection with the administration of the Applicant will be paid or provided for in a manner satisfactory to the agency, or agencies, rating the Bonds. If Applicant elects to be treated as a REMIC, it will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the Applicant by one of the following methods, or a combination thereof: (a) A third party, whose credit is acceptable to the agency, or agencies, rating the Bonds, the Bond Trustee and the Owner Trustee, will guarantee the payment of such fees and expenses; (b) one or more reserve funds will be established to provide for the payment of such fees and expenses, which maximum fees typically shall be projected, assuming current inflation factor scenarios required by the agency, or agencies, rating the Bonds, at the time of the issuance of the Bonds and the establishing of such reserve funds. Thereafter, the Bond Trustee will look solely to such reserve funds for the payment of certain fees and expenses. The procedure used to calculate the anticipated level of fees and expenses is reasonable and has been used successfully in the past, in that it has provided available funds sufficient to pay such fees and expenses and to insure that funds will be sufficient to cover future fees and expenses of the Bond Trustee; (c) the Bonds will be secured by Mortgage Collateral the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion thereof will be applied to the payment of such fees and expenses, and may be used in combination with any of the other methods described herein, and (d) the Owners of the residual interests of such Series will be personally liable, pursuant to the Deposit Trust Agreement or the Indenture, for the fees and expenses of the issuer with respect to such Series not otherwise payable from one of the sources described above. Applicant will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods described above (which methods may be used in combination) are selected by the Applicant to provide for the payment of such fees and expenses.

D. Conditions Relating to the Sale of Residual Interests

10. Notwithstanding the sale of residual interests representing ownership of excess cash flows, all of the outstanding stock of the Depositor will continue to be owned by American Charter; if the sale of residual, or equity, interests should result in the transfer of control (as the terms "control" is defined in Rule 405 under the 1933 Act) of an Issuer Trust, the relief afforded by any order granted herein would not apply to subsequent Bond offerings by that Issuer Trust; if the transfer of control is of the Depositor, the relief afforded by such order would not apply to subsequent Bond offerings by the Depositor, or by any Issuer Trust established by the Depositor.

11. The above representations regarding residual interests will be express conditions to the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3409 Filed 2-17-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24578]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 11, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 7, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70-6126)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a post-effective amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated April 25, 1978, April 27, 1979, June 24, 1980, June 30, 1981, and June 28, 1982 (HCAR Nos. 20516, 21022, 21639, 22112 and 22549), AEP was authorized to issue and sell, from time to time through June 30, 1985, up to 3,800,000 shares of its authorized but unissued common stock, $6.50 par value, to Banker's Trust Company, the Trustee for the AEP System Employees Savings Plan ("Savings Plan").

AEP now proposes that the balance of common stock, 1,238,831 shares, be issued and sold during the period April 1, 1988 to December 31, 1990.

National Fuel Gas Company, et al. (70-7201)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, Enerop Corporation ("Enerop"), 10 Lafayette Square, Buffalo, New York 14203, a wholly owned subsidiary of National, and Metscan Technology Partners ("Partnership"), 41 West Main Street, Honeoye Falls, New York 14472, a partnership, have filed a post-effective amendment to an application previously filed under sections 9(a) and 10, and now made pursuant to sections 2(a)(8)(A), 6(a), 7, 9(a), 10 and 12(b) of the Act and Rule 45 thereunder.

By prior Commission order in this matter, National was authorized to loan Metscan, Inc. ("Metscan") $200,000, and to receive an option to purchase 80,000 shares of Metscan's preferred stock, at a price of $2.50 per share (HCAR No. 24081, May 1, 1986). Metscan has developed certain electronic remote gas meter reading technology. It is proposed that National assign its interests in Metscan to Enerop. Enerop plans to amend its Certificate of Incorporation to enable it to hold and manage such investments. National also proposes to provide Enerop $800,000 as a contribution to capital, which funds Enerop will use to invest, together with third parties, in the Partnership.

After investing the $800,000 in the Partnership, Enerop will own approximately 17% of the Partnership. The Partnership requests an order stating that it will not be a subsidiary company of Enerop or National under the Act for such period of time as Enerop owns interests therein in excess of 10%. Following an initial development stage, it is anticipated that the Partnership and Metscan will be reorganized before the end of 1989 into a new corporation, and that Enerop's equity position in the new corporation will be approximately 10.8%. The Partnership has requested the Commission to reserve jurisdiction as to the status of the reorganized company under section 2(a)(8)(A) of the Act.

General Public Utilities Corporation (70-7485)

General Public Utilities Corporation, ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration pursuant to sections 6(a)(2), 7(e) and 12(e) of the Act and Rules 62 and 65 thereunder.

GPU proposes to amend its Articles of Incorporation ("Articles") to (a) provide staggered terms for the members of GPU's board of directors by classifying the board into three approximately equal classes, with each class having a three year term of office, and increase the minimum number of directors from four to five, and (b) increase the maximum number of authorized shares of common stock, par value $2.50 per share, from 75 million to 150 million.

GPU proposes to amend its By-Laws to require advance notice of any proposal by shareholders at the annual meeting to nominate directors for election or to consider any other items of business.

GPU proposes to solicit proxies for its annual meeting of shareholders on May 2, 1988 in connection with these proposed amendments to its Articles and By-Laws.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3410 Filed 2-17-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1052]

Soviet-Eastern European Studies Program

On February 2, 1988 the U.S. Department of State approved the recommendations of the Soviet-Eastern European Studies Advisory Committee for the following FY 1988 awards.

1. *American Council of Teachers of Russian*

Grant: $95,000

Purpose: To provide fellowships for advanced Russian language study in Moscow

Contract: Dan E. Davidson, Director, USSR Programs Group, American Council of Teachers of Russian, 815 New Gulph Road, Bryn Mawr, PA 19010 (215) 525-6559

2. *Council on International Educational Exchange*

Grant: $25,000

Purpose: To provide fellowships for advanced Russian language study in Leningrad

Contract: Damon B. Smith, Deputy Executive Director, Cooperative Russian Language Program, Council for International Educational Exchange, 205 East 42nd Street, New York, NY 10017 (212) 661-1414

3. *Hoover Institution at Stanford University*

Grant: $200,000

Purpose: To provide post-doctoral fellowships and summer research grants for support of individual research projects at Hoover on the USSR and Eastern Europe

Contract: Richard F. Staar, Coordinator, International Studies Program, Hoover Institution on War, Revolution and Peace at Stanford University, Stanford, CA 94305 (415) 723-1348

4. *University of Illinois*

Grant: $140,000

Purpose: To help fund the University's Slavic Reference Service and Summer Research Laboratory on Russia and Eastern Europe

Contract: Diane Merridith, Program Administrator, Russian and East European Center, University of Illinois at Urbana-Champaign, 1208 W. California Avenue, Urbana, IL 61801 (217) 333-1244 or 3278

5. *International Research and Exchanges Board*

Grant: $765,000

Purpose: To support short-term vists to the USSR and EE by senior scholars; collaborative projects between American and Soviet/EE scholars; joint commissions matching American research scholars to Soviet/EE counterparts; on-site language training in EE and non-Russian areas of USSR; developmental fellowships for underrepresented disciplines; summer seminar for first-time researchers going to the USSR; and dissemination of field results

Contact: Barbara Sassone, International Research and Exchanges Board, 126 Alexander Street, Princeton, NJ 08540-7102 (609) 683-9500

6. *The Joint Committee on Eastern Europe*

Grant: $470,000

Purpose: To provide support for advanced graduate student fellowships; research fellowships at early stages of teaching careers; the Subcommittee on Bibliography, Information Retrieval and Documentation to address library problems; and to encourage meeting of graduate students in conjunction with Wilson Center's East European Program

Contact: Jason Parker, Executive Associate, Joint Committee on Eastern Europe, American Council of Learned Societies, 228 East 45th Street, New York, NY 10017 (212) 697-1505

7. *The Joint Committee on Soviet Studies*

Grant: $775,000

Purpose: To support a national fellowship program composed of two-year fellowships for further study by advanced graduate students, one-year fellowships for dissertation completion, and post-doctoral fellowships for junior scholars; awards to universities for new teaching positions; and language training grants to institutions offering languages of the USSR

Contact: Blair Ruble, Staff Associate, Joint Committee on Soviet Studies, Social Science Research Council, 605 Third Avenue, New York, NY 10158 (212) 661-0280

8. *The National Council for Soviet and East European Research*

Grant: $1,290,000

Purpose: To support a national research program through contracts competitively awarded to institutions of higher education and non-profit research centers, including training of graduate assistants

Contact: Vladimir I. Toumanoff, Executive Director, The National Council for Soviet and East European Research, 1755 Massachusetts Avenue, NW., Suite 304, Washington, DC 20036 (202) 387-0168

9. *The Woodrow Wilson Center* of the Smithsonian Institution

Grant: $780,000

Purpose: To augment the research fellowship and meetings programs for academic and government experts of the Kennan Institute for Advanced Russian Studies ($495,000) and the East European Program ($285,000)

Contact: Peter Reddaway, Secretary, Kennan Institute for Advanced Russian Studies, The Wilson Center, Smithsonian Institution, 955 L'Enfant Plaza, SW., Suite 7400, Washington, DC 20560 (202) 287-3105

and

John R. Lampe, Secretary, East European Program, The European Institute, The Wilson Center, Smithsonian Institution Building, Washington, DC 20560 (202) 357-2952.

Date: February 9, 1988.

E. Raymond Platig,

Executive Director, Soviet and Eastern European Studies Program.

[FR Doc. 88-3368 Filed 2-17-88; 8:45 am]

BILLING CODE 4710-32-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-64]

Initiation of Section 301 Investigation; Korea's Restrictions on Access to Its Cigarette Market

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of decision to initiate an investigation under section 301.

SUMMARY: Pursuant to 19 U.S.C. 2412, the U.S. Trade Representative has determined to initiate an investigation of the Republic of Korea's policies and practices with respect to the importation, distribution and sale of cigarettes.

EFFECTIVE DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Sandra Kristoff, Deputy Assistant U.S. Trade Representative, (202) 395-4755, or Catherine Field, Associate General Counsel, (202) 395-3432, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC.

SUPPLEMENTARY INFORMATION: On January 22, 1988, the United States Cigarette Export Association (CEA) filed a petition under section 302(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2421(a), alleging that the Government of the Republic of Korea and its instrumentality, the Korean Monopoly Corporation (KMC) engaged in acts, policies and practices that are unreasonable or discriminate against imports and burden and restrict U.S. commerce. The import barriers complained of include, among others: (1) Fixing the retail price of imported cigarettes at a prohibitively high level through a combination of a high tariff, discriminatory domestic taxes and excessive and non-transparent payments to the KMC; (2) restricting imports and dictating the brand mix, and quantity of imports without reference to market factors; (3) imposing unreasonable restrictions on the distribution of imported cigarettes; (4) imposing a discriminatory retail margin; and (5) maintaining a monopoly on the manufacture, importation and distribution of cigarettes while prohibiting licensing, joint ventures and investment in the Korean tobacco industry by non-Korean private entities. Furthermore, CEA alleges that these policies and practices work together to deny fair and equitable access to the Korean cigarette market.

CEA believes that these practices deprive U.S. tobacco companies of access to a cigarette market worth $2.1 billion at the retail level in 1986. CEA estimates that the U.S. is losing $520 million of potential exports annually.

On February 16, 1988, the U.S. Trade Representative initiated an investigation

of the Korean government's policies and practices affecting efforts to obtain fair and equitable access to the Korean cigarette market. USTR will request consultations with the Government of the Republic of Korea, as required by section 303(a) of the Trade Act of 1974, as amended. However, extensive consultations on issues related to those raised in the CEA petition have taken place since July 1987.

USTR will seek information and advice from the petitioner and the appropriate representatives provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations. Any interested person is invited to submit comments on the issues raised in the petition. Comments should be filed in accordance with the regulations at 15 CFR 2006.6 and are due no later than March 10, 1988. Comments must be in English and provided in twenty copies to: Chairman, Section 301 Committee, Room 222, USTR, 600 17th Street NW., Washington, DC 20506.

C. Michael Hathaway,

Senior Deputy General Counsel.

[FR Doc. 88-3524 Filed 2-16-88; 4:00 pm]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-88-6]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 9, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 11, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25518	British Aerospace PLC Civil Aircraft Division.	14 CFR 145.71, 145.73(a), and 43.3	To allow petitioner, as the original equipment manufacturer and type certificate holder, to perform alteration, repair, and maintenance at its United Kingdom based facilities on aircraft and components/appliances operated wholly or partly within the United States by U.S.-registered operators.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22286	Finnair Oy	14 CFR 21.197	To extend Exemption No. 4598 that allows petitioner to obtain a special flight permit with continuing authorization for DC-10-30 aircraft, registration No. N345HC. The exemption allows petitioner to operate aircraft N345HC when it does not meet all applicable airworthiness requirements but is capable for safe flight for the purpose of flying the aircraft to a base where repairs, alterations, or maintenance may be performed, providing certain conditions are complied with *Grant, January 28, 1988.*
23753	Saudi Arabian Airlines Corporation	14 CFR 61.2	To extend Exemption No. 3923, as amended, that allows Saudi Arabian nationals to be issued U.S. private, commercial, and airline transport pilot certificates and instrument ratings and to add type ratings to U.S. pilot certificates. *Grant, January 29, 1988.*
23869	Strong Enterprises, Inc./The Relative Workshop, Inc..	14 CFR 105.43(a)	To delete Condition No. 5 from Exemption No. 4047, as amended, that allows petitioners to make tandem parachute jumps using dual harness, dual parachute packs. *Grant, January 29, 1988.*
25210	Air Transport Association of America	14 CFR 63.39(b)(1) and (2) and 121.425(a)(2)(i) and (ii).	To allow petitioner's member airlines and any other qualifying Part 121 certificate holder to permit checking of certain highly qualified flight engineer candidates using advance pictorial means in place of static aircraft for preflight inspections and to complete the normal procedures checks in simulators or approved training devices rather than actual aircraft. *Partial Grant, January 29, 1988.*

[FR Doc. 88-3360 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-13-M

Guidelines for Determining Apportionments of Airport Improvement Program Funds to Cargo Service Airports

SUMMARY: This notice provides general guidelines for the determination of cargo service airport apportionments pursuant to Pub. L. 100–223. It is also to announce the availability of FAA Form 5100–108 entitled "All-Cargo Carrier Activity Report", contingent upon OMB approval, for use in reporting cargo carrier activity data.

DATES: These general guidelines will be used for the FY 1988 Airport Improvement Program's cargo service airport apportionment but will remain open for comment. Final guidelines for FY 1989 and beyond will after revision become effective on July 1, 1988.

ADDRESSES: Send comments before April 1, 1988, to the Federal Aviation Administration, Office of Airport Planning and Programming, Attn: National Planning Division (APP–400, Room 617), 800 Independence Avenue SW., Washington, DC 20591 .

FOR FURTHER INFORMATION CONTACT: Wrensey Gill, Program Manager, (202) 267–8782.

SUPPLEMENTARY INFORMATION: The Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100–223) recognizes that cargo service airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports. Section 507 of this Act provides for the apportionment of funds to sponsors of airports which are served by aircraft providing air transportation of property only, including mail. Airports qualifying are those with an aggregate annual landed weight in excess of 100,000,000 pounds. Three percent of the amount made available under section 505 fiscal years 1988 through 1992 (not to exceed $50,000,000) are to be distributed as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

This data collection is urgent and is being expedited by direct mailing to sponsors at airports who are believed to have enough cargo aircraft landings that they may attain or exceed the 100 million pound limit. Any airport sponsor who wishes to receive a mailed copy of this material in order to determine whether or not they can qualify should contact FAA/APP–400 by telephone as soon as possible.

Issued in Washington, DC on February 11, 1988.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

General Guidelines for Determination of Cargo Service Airport Qualifications Pursuant to Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100–223)

1. All Forms for CY 1986 should be submitted not later than April 15, 1988, to: Federal Aviation Administration, Office of Airport Planning and Programming, Attn: National Planning Division, APP–400, Room 617, 800 Independence Avenue SW., Washington, DC 20591.

2. Qualification criteria for a cargo service airport is based on the total aircraft landed weight of all-cargo aircraft only (see exclusions below).

3. The initial submission of cargo data for CY 1986 shall become the responsibility of candidate airport sponsors and should commence immediately. Use of FAA Form 5100–108 for the purpose of reporting this information (for CY 1986 only) is preferred but not mandatory. In order to expedite the cargo entitlement allocation process, airport sponsors may submit the required data on either FAA Form 5100–108 or substitute forms which they locally developed and which have been previously authenticated by the cargo carrier. The local form must, however, provide all required information and must also contain proper signatures.

4. In order to expeditiously facilitate data processing and be considered as a condidate cargo service airport, the prospective sponsor must prepare and submit its annual CY 1986 aggregate aircraft landed weights for each month on a separate form or page for each cargo carrier.

5. The listing of data on the reverse side of FAA Form 5100–108 is not intended to be all-inclusive. Other air carriers (such as airlines, commuters, or air taxi operators) should also be included if they also operate aircraft dedicated to the transportation of cargo.

6. Foreign air carriers who otherwise meet all cargo criteria provided herein are also eligible for inclusion in the total landed weight of cargo aircraft at cargo service airports.

7. Definitions:

A. "AIRCRAFT LANDED WEIGHT" means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation. For purposes of this cargo service airport apportionment, the aircraft landed weight is the certified maximum gross landed weight of the aircraft type as specified by the aircraft manufacturer without regard to its cargo carrying capacity, fuel supply, and/or actual payload. An exception to this rule may be made to allow for a correction when the weight of equipment actually installed onboard an aircraft is different from the manufacturers' certified landed weight. The actual or recertificated maximum gross landed weight of the aircraft shall be used in these instances.

B. "LANDINGS" (Number of) refers to those landings performed by the cargo carrier in revenue producing or commercial operations only. It excludes landings on all non-revenue, training, or practice flights, etc.

C. "ALL-CARGO AIRCRAFT" means any aircraft especially designed, manufactured, and/or modified to be used solely for transportation of property, i.e., cargo, mail, and/or freight. (See maximum landed weights listed on the reverse side of FAA Form 5100–108. For any aircraft model not included in this list, the cargo carrier must submit evidence to FAA/APP–400 showing when, where, and by whom such modifications were performed for permanent conversion of subject aircraft for cargo transportation before it can be counted as an all-cargo type.)

D. "CARGO SERVICE AIRPORT" is an airport which is served by all-cargo aircraft in scheduled and non-scheduled service providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100 million pounds.

8. Exclusions:

A. Aircraft that are engaged in transportation of both revenue passengers and cargo are excluded.

B. Aircraft that have permanently installed passenger facilities (such as seats, overhead bins, interior decor, etc.) for scheduled and nonscheduled passenger flights are excluded from the cargo category.

C. Carriers who are not regularly engaged in freight and cargo transportation are not eligible for inclusion in the all-cargo category (Refer to the listing on reverse side of FAA Form 5100–108).

9. Required Signatures:

A. Airport Representative/Date: Each copy of the FAA Form 5100–108 or a substitute local airport form submitted

must bear the "Original Signature and Date" of the designated airport official duly authorized to certify and attest to the validity of the information reported by the cargo carrier identified thereon as having been submitted in unaltered form and that such information is acceptable to subject airport sponsor for use in determining its cargo service entitlements.

B. Cargo Carrier Representative/Date: Each copy of FAA Form 5100-108 or each copy of a substitute local airport form being submitted must bear the "Original Signature and Date" of the designated cargo carrier official duly authorized to certify and attest to the validity and accuracy of the reported information (aircraft, number of landings, landing weights, etc,) reported thereon as having been actually performed by aircraft which are owned, operated, and/or controlled by subject cargo carrier at subject airport.

Mail to: Federal Aviation Administration, Office of Airport Planning and Programming, National Planning Division, APP-400, Rm. 617, 800 Independence Avenue SW., Washington, DC 20591.

[FR Doc. 87-3361 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-823]

Waterman Steamship Corp.; Application to Provide Trade Route 18/17 Service

Waterman Steamship Corporation (Waterman), by application dated February 12, 1988, has requested an amendment to Appendix B of Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB-115 to provide Trade Route (TR) 18/17 (U.S. Atlantic and Gulf/Red Sea-Indonesia-Malaysia-Singapore) service with a C5-S-75a type vessel named PRESIDENT TAYLOR to be bareboat chartered from American President Lines, Ltd. Waterman intends to operate the vessel for an initial period of six months with renewal options every six months until termination of the ODSA on June 1, 1991.

Under the ODSA, Waterman is authorized to make a minimum/maximum of 30/40 sailings per year on TR 18/17.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on February 24, 1988. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Subsidy Board.

Date: February 16, 1988.

James E. Saari,

Secretary.

[FR Doc. 88-3579 Filed 2-17-88; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 32
Thursday, February 18, 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 AND PLACE: Thursday, February 25, 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:

1. The Council will be briefed by Sally Rand of the Environmental Law Institution on a study she prepared for the Council, entitled, "Environmental Referrals and the Council on Environmental Quality."
2. Others matters may be discussed.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503; Telephone: (202) 395-5754.

A. Alan Hill,
Chairman.

[FR Doc. 88-3514 Filed 2-16-88; 10:52 am]

BILLING CODE 3125-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Friday, February 12, 1988, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration of the meeting, on less than seven days' notice to the public, of the following matter:

Application of Columbian Savings Bank, an operating non-FDIC-insured savings bank located at 305 St. John Street, Havre de Grace, Maryland, for Federal deposit insurance.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Requests for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 12, 1988.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,
Deputy Executive Secretary.

[FR Doc. 88-3487 Filed 2-16-88; 9:27 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 88-2457.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 11, 1988, 10:00 a.m.

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:

Expedited Compliance Procedures for the 1988 Primary Elections

* * * * *

DATE AND TIME: Tuesday, February 23, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 4388(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, February 25, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1987-29—Jan W. Baran on behalf of Life Underwriters PAC and the National Association of Life Underwriters.
Draft Advisory Opinion 1988-02—Terry L. Claassen on behalf of the Chicago Board Options Exchange, Inc.
Draft Advisory Opinion 1988-06—Donald J. Simon on behalf of Albert Gore, Jr. for President Committee, Inc.
Legislative Recommendations.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer. Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 88-3580 Filed 2-16-88; 3:02 pm]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 3:00 p.m.—February 25, 1988.

PLACE: Hearing Room One—1100 L Street, NW., Washington, DC 20573.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED

Portion Open to the Public

1. Tribute to Chairman Edward V. Hickey, Jr.

Portion Closed to the Public

2. Inquiry into Foreign laws, Rules and Policies Affecting Shipping in the U.S. Trades with Korea: Responses to section 15 Order.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,
Secretary.

[FR Doc. 88-3595 Filed 2-16-88; 3:25 pm]

BILLING CODE 6730-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 11, 1988.

TIME AND DATE: 10:00 a.m., Thursday, February 18, 1988.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Southern Ohio Coal Company*, Docket Nos. WEVA 86-190-R, etc. (Issues include whether the judge erred in ruling that the Secretary may only issue a 30 CFR 75.1403 safeguard notice that is not based on a promulgated criterion in a case where the cited hazard is unique to the mine where the notice is issued.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88-3541 Filed 2-16-88; 12:59 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, February 24, 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 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-3570 Filed 2-16-88; 2:23 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 15, 22, 29, and March 7, 1988.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 15

Thursday, February 18

9:30 a.m.
Discussion of Pending Investigation (Closed—Ex. 5 & 7)

11:00 a.m.
Affirmative/Discussion and Vote (Public Meeting)
a. Response to Certified Question Propounded by the Appeal Board to the Commission in the Matter of General Public Utilities Nuclear, ALAB-881 (Tentative)

Week of February 22—Tentative

Wednesday, February 24

9:30 a.m.
Briefing on Sequoyah Restart (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 29—Tentative

Monday, February 29

1:45 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Discussion/Possible Vote on Rancho Seco Restart (Public Meeting)

Thursday, March 3

2:30 p.m.
Classified Security Briefing (Closed—Ex. 1)

Friday, March 4

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for South Texas (Public Meeting)

Week of March 7—Tentative

Thursday, March 10

9:30 a.m.
Briefing on Status of Proposed Rulemaking on Basic QA in Radiation Therapy and Related Activities (Public Meeting)

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Briefing on Static Elimination Device Problems (Public Meeting) was held on February 8.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no time has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (202) 634-1410.

Andrew L. Bates,

Office of the Secretary.

February 11, 1988.

[FR Doc. 88-3480 Filed 2-12-88; 4:43 pm]

BILLING CODE 7590-01-M

federal register

Thursday
February 18, 1988

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 1, 22, 50, 52, and 53
Federal Acquisition Regulation; Labor Standards for Construction Contracts; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 22, 50, 52, and 53

[Federal Acquisition Circular 84-34]

Federal Acquisition Regulations; Labor Standards for Construction Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84–34 amends the Federal Acquisition Regulation (FAR) to implement labor standards provisions issued by the Department of Labor that are applicable to Federally Financed and Assisted Construction Contracts.

EFFECTIVE DATE: February 29, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule is issued by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration to provide uniform guidance regarding labor standards on construction contracts.

GSA is currently contesting a recent interpretation by the Department of Labor (DOL) that the Davis-Bacon Act is applicable to a Government lease of a building which is to be erected by the lessor. It is GSA's position that the Davis-Bacon Act and any implementing regulations, including those contained in this Federal Acquisition Circular, do not apply to leases of real property.

B. Paperwork Reduction Act

The information collection requirements contained in this FAR revision were approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 1215–0140, 1215–0149, and 1215–0017.

C. Regulatory Flexibility Act

A full final regulatory impact and Regulatory Flexibility Act Analysis was prepared by the Department of Labor (DOL) and a summary was published in the **Federal Register** on May 28, 1982 (47 FR 23661) when the DOL published its regulation. The revision to FAR 22.4 is an implementation of the policy and regulation published by the DOL, and has no impact beyond that imposed by the DOL and covered in its 1982 analysis. Therefore, it is certified that this regulation will not have a significant economic impact on a substantial number of small entities because it merely codifies in the FAR (48 CFR), for the convenience of contractors and Government contracting personnel, regulations issued by DOL and codified in 29 CFR for which comments were requested and considered. Accordingly, the Regulatory Flexibility Act does not apply to this final rule.

D. Public Comments

A proposed rule was published in the **Federal Register** on November 3, 1986 (51 FR 39456), to revise the FAR to implement the Department of Labor labor standards provisions applicable to the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland (Anti-Kickback) Act.

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have considered the public comments solicited. Nineteen responses were received. Twelve of these respondents either concurred or recommended no change. The comments of the remaining seven respondents were taken into consideration in developing the final rule. These included a number of editorial changes which were generally adopted. Several comments recommended changes which conflicted with the Department of Labor regulations and were not accepted.

List of Subjects in 48 CFR Parts 1, 22, 50, 52, and 53

Government procurement.

Dated: February 12, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84–34 is effective February 29, 1988.

Eleanor R. Spector,

Deputy Assistant Secretary of Defense for Procurement.

Terence C. Golden,

Administrator, GSA.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84–34 amends the Federal Acquisition Regulation (FAR) as specified below:

ITEM I—Labor Standards for Construction Contracts.

FAR section 1.105, Subparts 22.3, Contract Work Hours and Safety Standards Act, and 22.4, Labor Standards for Contracts Involving Construction are revised to implement labor standards provisions issued by the Department of Labor that are applicable to contracts covering Federally Financed and Assisted Construction.

FAR section 50.307 is revised to include the appropriate clause reference from this revision.

FAR clauses 52.222–6 through 52.222–17 and three Standard Forms are added to this rule.

Therefore, 48 CFR Parts 1, 22, 50, 52, and 53 are amended as set forth below:

1. The authority citation for Parts 1, 22, 50, 52, and 53 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1.105 is amended by adding, in numerical order, FAR segments and corresponding OMB Control Numbers to read as follows:

1.105 OMB approval under the Paperwork Reduction Act.

FAR segment	OMB control No.
* * * *	*
52.222-6	1215-0140
52.222-8	1215-0149 and 1215-0017
52.222-11	9000-0014
* * * *	*
SF 1444	9000-0089
SF 1445	9000-0089
SF 1446	9000-0089
* * * *	*

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Section 22.001 is added to read as follows:

22.001 Definition.

"Administrator" or "Administrator, Wage and Hour Division," as used in this part, means the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 or an authorized representative.

4. Section 22.302 is amended by adding paragraphs (c) and (d) to read as follows:

22.302 Liquidated damages and overtime pay.

* * * * *

(c) If the head of an agency or a designee finds that the administratively determined liquidated damages due under section 104(c) of the Contract Work Hours and Safety Standards Act are incorrect, or that the contractor or subcontractor inadvertently violated the provisions of the Act notwithstanding the exercise of due care, the agency head or a designee may—

(1) Make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of $500 or less; or

(2) Make a recommendation to the Secretary of Labor for an adjustment in or release from the liability when the liquidated damages are over $500.

(d) Upon final administrative determination, funds withheld or collected for liquidated damages shall be disposed of in accordance with agency procedures.

5. Subpart 22.4, consisting of sections 22.400 through 22.407, is revised to read as follows:

Subpart 22.4—Labor Standards for Contracts Involving Construction

Sec.
22.400 Scope of subpart.
22.401 Definitions.
22.402 Applicability.
22.403 Statutory and regulatory requirements.
22.403–1 Davis-Bacon Act.
22.403–2 Copeland Act.
22.403–3 Contract Work Hours and Safety Standards Act.
22.403–4 Department of Labor regulations.
22.404 Davis-Bacon Act wage determinations.
22.404–1 Type of wage determinations.
22.404–2 General requirements.
22.404–3 Procedures for requesting wage determinations.
22.404–4 Solicitations issued without wage determinations.
22.404–5 Expiration of project wage determinations.
22.404–6 Modifications of wage determinations.
22.404–7 Correction of wage determinations containing clerical errors.
22.404–8 Notification of improper wage determination before award.
22.404–9 Award of contract without required wage determination.
22.404–10 Posting wage determinations and notice.
22.404–11 Wage determination appeals.
22.405 Labor standards for construction work performed under facilities contracts.
22.406 Administration and enforcement.
22.406–1 Policy.
22.406–2 Wages, fringe benefits, and overtime.
22.406–3 Additional classifications.
22.406–4 Apprentices and trainees.
22.406–5 Subcontracts.
22.406–6 Payrolls and statements.
22.406–7 Compliance checking.
22.406–8 Investigations.
22.406–9 Witholding from or suspension of contract payments.
22.406–10 Disposition of disputes concerning construction contract labor standards enforcement.
22.406–11 Contract terminations.
22.406–12 Cooperation with the Department of Labor.
22.406–13 Semiannual enforcement reports.
22.407 Contract clauses.

Subpart 22.4—Labor Standards for Contracts Involving Construction

22.400 Scope of subpart.

This subpart implements the statutes which prescribe labor standards requirements for contracts in excess of $2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works. (See definition of "Construction" in section 22.401.) Labor relations requirements prescribed in other subparts of Part 22 may also apply.

22.401 Definitions.

"Building" or "work," as used in this subpart generally means construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighhouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not "building" or "work" within the meaning of the regulations in this subpart unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

"Construction, alteration, or repair," as used in this subpart, means all types of work done on a particular building or work at the site thereof, including without limitation, altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work by persons employed by the contractor or subcontractor.

"Laborers or mechanics," as used in this subpart, includes—

(a) Those workers, utilized by a contractor or subcontractor at any tier, whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial;

(b) Apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchman and guards;

(c) Working foremen who devote more than 20 percent of their time during a workweek performing duties of a laborer or mechanic, and who do not meet the criteria of 29 CFR Part 541, for the time so spent; and

(d) Every person performing the duties of a laborer or mechanic, regardless of any contractual relationship alleged to exist between the contractor and those individuals. The terms exclude workers whose duties are primarily executive, supervisory (except as provided in paragraph (c) of this definition), administrative, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR Part 541 are not deemed to be laborers or machanics.

"Public building" or "public work," as used in this subpart, means building or work, the construction, prosecution, completion, or repair of which, as defined in this section, is carried on directly by authority of, or with funds of, a Federal agency to serve the interest of

the general public regardless of whether title thereof is in a Federal agency.

"Site of the work," as used in this subpart, is defined as follows:

(a) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it is completed, and nearby property, as described in paragraph (b) of this definition, used by the contractor or subcontractor during construction that, because of proximity, can reasonably be included in the "site."

(b) Except as provided in paragraph (c) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are parts of the "site of the work"; provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

(c) The "site of the work" does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work," even if the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

"Wages," as used in this subpart, means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

22.402 Applicability.

(a) *Contracts for construction work.*

(1) The requirements of this subpart apply—

(i) Only if the construction work is, or reasonably can be foreseen to be, performed at a particular site so that wage rates can be determined for the locality, and only to construction work that is performed by laborers and mechanics at the site of the work;

(ii) To dismantling, demolition, or removal of improvements if a part of the construction contract, or if construction at that site is anticipated by another contract as provided in Subpart 37.3;

(iii) To the manufacture or fabrication of construction materials and components conducted in connection with the construction and on the site of the work by the contractor or a subcontractor under a contract otherwise subject to this subpart; and

(iv) To painting of public buildings or public works, whether performed in connection with the original construction or as alteration or repair of an existing structure.

(2) The requirements of this subpart do not apply to—

(i) The manufacturing of components or materials off the site of the work or their subsequent delivery to the site by the commercial supplier or materialman;

(ii) Contracts requiring construction work that is so closely related to research, experiment, and development that it cannot be performed separately, or that is itself the subject of research, experiment, or development (see paragraph (b) of this section for applicability of this subpart to research and development contracts or portions thereof involving construction, alteration, or repair of a public building or public work);

(iii) Employees of railroads operating under collective bargaining agreements that are subject to the Railway Labor Act; or

(iv) Employees who work at contractors' or subcontractors' permanent home offices, fabrication shops, or tool yards not located at the site of the work. However, if the employees go to the site of the work and perform construction activities there, the requirements of this subpart are applicable for the actual time so spent, not including travel unless the employees transport materials or supplies to or from the site of the work.

(b) *Nonconstruction contracts involving some construction work.* (1) The requirements of this subpart apply to construction work to be performed as part of nonconstruction contracts (supply, service, research and development, etc.) if—

(i) The construction work is to be performed on a public building or public work;

(ii) The contract contains specific requirements for a substantial amount of construction work exceeding the monetary threshold for application of the Davis Bacon Act (the word "substantial" relates to the type and quantity of construction work to be performed and not merely to the total value of construction work as compared to the total value of the contract); and

(iii) The construction work is physically or functionally separate from, and is capable of being performed on a segregated basis from, the other work required by the contract.

(2) The requirements of this subpart do not apply if—

(i) The construction work is incidental to the furnishing of supplies, equipment, or services (for example, the requirements do not apply to simple installation or alteration at a public building or public work that is incidental to furnishing supplies or equipment under a supply contract; however, if a substantial and segregable amount of construction, alteration, or repair is required, such as for installation of heavy generators or large refrigerator systems or for plant modification or rearrangement, the requirements of this subpart apply); or

(ii) The construction work is so merged with nonconstruction work or so fragmented in terms of the locations or time spans in which it is to be performed, that it is not capable of being segregated as a separate contractual requirement.

22.403 Statutory and regulatory requirements.

22.403-1 Davis-Bacon Act.

The Davis-Bacon Act (40 U.S.C. 276a–276a–7) provides that contracts in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222–6) that no laborer or mechanic employed directly upon the site of the work shall receive

less than the prevailing wage rates as determined by the Secretary of Labor.

22.403-2 Copeland Act.

The Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 276c) makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week. Contracts subject to the Copeland Act shall contain a clause (see 52.222-10) requiring contractors and subcontractors to comply with the regulations issued by the Secretary of Labor under the Copeland Act.

22.403-3 Contract Work Hours and Safety Standards Act.

The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) requires that certain contracts (see 22.305) contain a clause (see 52.222-4) specifying that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1½ times the basic rate of pay (see 22.301).

22.403-4 Department of Labor regulations.

Under the statutes referred to in this 22.403 and Reorganization Plan No. 14 of 1950 (3 CFR 1949-53 Comp., p. 1007), the Secretary of Labor has issued regulations in Title 29, Subtitle A, Code of Federal Regulations, prescribing standards and procedures to be observed by the Department of Labor and the Federal contracting agencies. Those standards and procedures applicable to contracts involving construction are implemented in this subpart. The Department of Labor regulations include—

(a) Part 1, relating to Davis-Bacon Act minimum wage rates;

(b) Part 3, relating to the Copeland (Anti-Kickback) Act and requirements for submission of weekly statements of compliance and the preservation and inspection of weekly payroll records;

(c) Part 5, relating to enforcement of the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland (Anti-Kickback) Act;

(d) Part 6, relating to rules of practice for appealing the findings of the Administrator, Wage and Hour Division, in enforcement cases under the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, Copeland (Anti-Kickback) Act, and Service Contract Act, and by which Administrative Law Judge hearings are held; and

(e) Part 7, relating to rules of practice by which contractors and other interested parties may appeal to the Department of Labor Wage Appeals Board, decisions issued by the Administrator, Wage and Hour Division, or administrative law judges under the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, or Copeland (Anti-Kickback) Act. All questions relating to the application and interpretation of wage determinations (including the classifications therein) and the interpretation of the Department of Labor regulations in this subsection shall be referred to the Administrator, Wage and Hour Division.

22.404 Davis-Bacon Act wage determinations.

The Department of Labor is responsible for issuing wage determinations reflecting prevailing wages, including fringe benefits. The wage determinations apply only to those laborers and mechanics employed by a contractor upon the site of the work including drivers who transport to or from the site materials and equipment used in the course of contract operations. Determinations are issued for different types of construction, such as building, heavy, highway, and residential (referred to as rate schedules), and apply only to the types of construction designated in the determination.

22.404-1 Types of wage determinations.

(a) *General wage determinations.*

(1) A general wage determination contains prevailing wage rates for the types of construction designated in the determination, and is used in contracts performed within a specified geographical area. General wage determinations contain no expiration date and remain valid until modified, superseded, or canceled by a notice in the **Federal Register** by the Department of Labor. Once incorporated in a contract, a general wage determination normally remains effective for the life of the contract. These determinations shall be used whenever possible. They are issued at the discretion of the Department of Labor either upon receipt of an agency request or on the Department of Labor's own initiative.

(2) General wage determinations are published weekly in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts." Notices of general wage determinations are published in the **Federal Register.** General wage determinations are effective on the publication date of the notice or upon receipt of the determination by the contracting agency, whichever occurs first.

(3) The GPO publication is available for examination at each of the 50 Regional Government Depository Libraries and many other of the 1,400 Government Depository Libraries across the country. Subscriptions may be obtained by contacting: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The GPO publication is divided into three volumes East, Central, and West which may be ordered separately. The States covered by each volume are as follows:

Volume I—East

Alabama	New York
Connecticut	North Carolina
Delaware	Pennsylvania
Florida	Rhode Island
Georgia	South Carolina
Kentucky	Tennessee
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
Mississippi	District of Columbia
New Hampshire	Puerto Rico
New Jersey	Virgin Islands

Volume II—Central

Arkansas	Missouri
Illinois	Nebraska
Iowa	Ohio
Indiana	Oklahoma
Kansas	Texas
Louisiana	Wisconsin
Michigan	New Mexico
Minnesota	

Volume III—West

Alaska	North Dakota
Arizona	Hawaii
California	South Dakota
Colorado	Utah
Guam	Washington
Idaho	Wyoming
Montana	Oregon
Nevada	

(4) On or about January 1 of each year, an annual edition will be issued that includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year regular weekly updates will be distributed providing any modifications or superseded wage determinations issued. Each volume's annual and weekly editions will be provided in loose-leaf format.

(b) *Project wage determinations.* A project wage determination is issued at the specific request of a contracting

agency. It is used only when no general wage determination applies, and is effective for 180 calendar days from the date of the determination. However, if a determination expires before contract award, it may be possible to obtain an extension to the 180-day life of the determination (see 22.404–5(b)(2)). Once incorporated in a contract, a project wage determination normally remains effective for the life of the contract.

22.404-2 General requirements.

(a) The contracting officer shall ensure that only the appropriate wage determinations are incorporated in solicitations and contracts and shall designate the work to which each wage determination or part thereof applies.

(b) If the wage determination is a general wage determination or a project wage determination containing more than one rate schedule, the contracting officer shall either include only the rate schedules that apply to the particular types of construction (building, heavy, highway, etc.) or include the entire wage determination and clearly indicate the parts of the work to which each rate schedule shall be applied. Inclusion by reference is not permitted.

(c) The Wage and Hour Division has issued the following general guidelines for use in selecting the proper schedule(s) of wage rates:

(1) *Building* construction is generally the construction of sheltered enclosures with walk-in access, for housing persons, machinery, equipment, or supplies. It typically includes all construction of such structures, installation of utilities and equipment (both above and below grade level), as well as incidental grading, utilities and paving, unless there is an established area practice to the contrary.

(2) *Residential* construction is generally the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height, and typically includes incidental items such as site work, parking areas, utilities, streets and sidewalks, unless there is an established area practice to the contrary.

(3) *Highway* construction is generally the construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, parking areas, and other similar projects that are not incidental to "building," "residential," or "heavy" construction.

(4) *Heavy* construction includes those projects that are not properly classified as either "building," "residential," or "highway," and is of a catch-all nature. Such heavy projects may sometimes be distinguished on the basis of their individual characteristics, and separate schedules issued (e.g., "dredging," "water and sewer line," "dams," "flood control," etc.).

(5) When the nature of a project is not clear, it is necessary to look at additional factors, with primary consideration given to locally established area practices. If there is any doubt as to the proper application of wage rate schedules to the type or types of construction involved, guidance shall be sought before the opening of bids, or receipt of best and final offers, from the Administrator, Wage and Hour Division. Further examples are contained in Department of Labor All Agency Memoranda Numbers 130 and 131.

22.404-3 Procedures for requesting wage determinations.

(a) *Requests for general wage determinations.* If there is a general wage determination applicable to the project, the agency may use it without notifying the Department of Labor. When necessary, a request for a general wage determination may be made by submitting Standard Form (SF) 308, Request for Determination and Response to Request, to the Administrator, Wage and Hour Division, attention: Branch of Construction Contract Wage Determinations.

(b) *Requests for project wage determinations.* A contracting agency shall submit requests for project wage determinations on SF 308 to the Department of Labor. The requests shall include the following information:

(1) The location, including the county (or other civil subdivision) and State in which the proposed project is located.

(2) The name of the project and a sufficiently detailed description of the work to indicate the types of construction involved (e.g., building, heavy, highway, residential, or other type).

(3) Any available pertinent wage payment information, unless wage patterns in the area are clearly established.

(4) The estimated cost of each project.

(5) All the classifications of laborers and mechanics likely to be employed.

(c) *Time for submission of requests.* The time required by the Department of Labor for processing requests for project wage determinations varies according to the facts and circumstances in each case. An agency should expect the processing to take at least 30 days. Accordingly, agencies should submit requests to the Department of Labor at least 45 days (60 days if possible) before issuing the solicitation.

(d) *Limitations.* Project wage determinations are effective for 180 calendar days from the date of issuance and apply only to contract awards made within that time period (see 22.404–1(b)). Project wage determinations do not apply to, and shall not be included in, contracts other than those for which they are issued. Once incorporated in a contract, a project wage determination normally remains effective for the life of the contract.

(e) *Review of wage determinations.* Immediately upon receipt, the contracting agency shall examine the wage determination and inform the Department of Labor of any changes necessary or appropriate to correct errors. Private parties requesting changes should be advised to submit their requests to the Department of Labor.

22.404-4 Solicitations issued without wage determinations.

(a) If a solicitation is issued before the wage determination is obtained, a notice shall be included in the solicitation that the schedule of minimum wage rates to be paid under the contract will be issued as an amendment to the solicitation.

(b) In sealed bidding, bids may not be opened until a reasonable time after the wage determination has been furnished to all bidders.

(c) In negotiated acquisitions, the contracting officer may open proposals and conduct negotiations before obtaining the wage determination. However, the contracting officer shall incorporate the wage determination into the solicitation before submission of best and final offers.

22.404-5 Expiration of project wage determinations.

(a) The contracting officer shall make every effort to ensure that contract award is made before expiration of the project wage determination included in the solicitation.

(b) The following procedure applies when contracting by sealed bidding:

(1) If a project wage determination expires before bid opening, or if it appears before bid opening that a project wage determination may expire before award, the contracting officer shall request a new determination early enough to ensure its receipt before bid opening. If necessary, the contracting officer shall postpone the bid opening date to allow a reasonable time to obtain the determination, amend the solicitation to incorporate the new determination, and permit bidders to amend their bids. If the new determination does not change the wage rates and would not warrant amended bids, the contracting officer shall amend

the solicitation to include the number and date of the new determination.

(2) If a project wage determination expires after bid opening but before award, the contracting officer shall request an extension of the project wage determination expiration date from the Administrator, Wage and Hour Division. The request for extension shall be supported by a written finding, which shall include a brief statement of factual support, that the extension is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business. If necessary, the contracting officer shall delay award to permit either receipt of the extension or receipt and processing of a new determination. If the request is granted, the contracting officer shall award the contract and modify it to apply the extended expiration date to the already incorporated project wage determination. (See 43.103(b)(1).) If the request is denied, the Administrator will proceed to issue a new project wage determination. Upon receipt, the contracting officer shall process the new determination as follows:

(i) If the new determination changes any wage rates for classifications to be used in the contract, the contracting officer may cancel the solicitation only in accordance with 14.404–1. Otherwise the contracting officer shall award the contract and incorporate the new determination to be effective on the date of contract award. The contracting officer shall equitably adjust the contract price for any increased or decreased cost of performance resulting from any changed wage rates.

(ii) If the new determination does not change any wage rates, the contracting officer shall award the contract and modify it to include the number and date of the new determination. (See 43.103(b)(1).)

(c) The following procedure applies when contracting by negotiation:

(1) If a project wage determination will or does expire before contract award, the contracting officer shall request a new wage determination from the Department of Labor. If necessary, the contracting officer shall delay award while the new determination is obtained and processed.

(2) The contracting officer need not delay opening and reviewing proposals or discussing them with the offerors while a new determination is being obtained. The contracting officer shall request offerors to extend the period for acceptance of any proposal if that period expires or may expire before receipt and full processing of the new determination.

(3) If the new determination changes any wage rates, the contracting officer shall amend the solicitation to incorporate the new determination, and furnish the wage rate information to all prospective offerors that were sent a solicitation if the closing date for receipt of proposals has not yet occurred, or to all offerors that submitted proposals if the closing date has passed. All offerors to whom wage rate information has been furnished shall be given reasonable opportunity to amend their proposals.

(4) If the new determination does not change any wage rates, the contracting officer shall amend the solicitation to include the number and date of the new determination and award the contract.

22.404–6 Modifications of wage determinations.

(a) *General.* The Department of Labor may modify a wage determination to make it current by specifying only the items being changed or by issuing a "supersedeas decision," which is a reissuance of the entire determination with changes incorporated. All project wage determination modifications expire on the same day as the original determinaiton. The need to include a modification of a project wage determination in a solicitation is determined by the time of receipt of the modification by the contracting agency. Therefore, the modification shall be time-date stamped immediately upon receipt by the agency. The need for inclusion of a modification of a general wage determination in a solicitation is determined by the publication date of the notice in the **Federal Register**, or by the time of receipt of the modification (time-date stamped immediately upon receipt) by the contracting agency, whichever occurs first. (Note the distinction between receipt by the agency (modification is effective) and receipt by the contracting officer, which may occur later.)

(b) The following applies when contracting by sealed bidding:

(1) A written action modifying a wage determination shall be effective if:

(i) It is received by the contracting agency, or notice of the modification is published in the **Federal Register**, 10 or more calendar days before the date of bid opening, or

(ii) It is received by the contracting agency, or notice of the modification is published in the **Federal Register**, less than 10 calendar days before the date of bid opening, unless the contracting officer finds that there is not reasonable time available before bid opening to notify the prospective bidders. (If the contracting officer finds that there is not reasonable time to notify bidders, a written report of the finding shall be placed in the contract file and shall be made available to the Department of Labor upon request.)

(2) All written actions modifying wage determinations received by the contracting agency after bid opening, or modifications to general wage determinations, notices of which are published in the **Federal Register** after bid opening, shall not be effective and shall not be included in the solicitation (but see paragraph (b)(6) of this section).

(3) If an effective modification is received by the contracting officer before bid opening, the contracting officer shall postpone the bid opening, if necessary, to allow a reasonable time to amend the solicitation to incorporate the modification and permit bidders to amend their bids. If the modification does not change the wage rates and would not warrant amended bids, the contracting officer shall amend the solicitation to include the number and date of the modification.

(4) If an effective modification is received by the contracting officer after bid opening, but before award, the contracting officer shall follow the procedures in 22.404–5(b)(2)(i) or (ii).

(5) If an effective modification is received by the contracting officer after award, the contracting officer shall modify the contract to incorporate the wage modification retroactive to the date of award and equitably adjust the contract price for any increased or decreased cost of performance resulting from any changed wage rates. If the modification does not change any wage rates and would not warrant contract price adjustment, the contracting officer shall modify the contract to include the number and date of the modification.

(6) If an award is not made within 90 days after bid opening, any modification to a general wage determination, notice of which is published in the **Federal Register** before award, shall be effective for any resultant contract unless an extension of the 90-day period is obtained from the Administrator, Wage and Hour Division. An agency head or a designee may request such an extension from the Administrator. The request must be supported by a written finding, which shall include a brief statement of factual support, that the extension is necessary and proper in the public interest to prevent injustice, undue hardship, or to avoid serious impairment in the conduct of Government business. The contracting officer shall follow the procedures in 22.404–5(b)(2).

(c) The following applies when contracting by negotiation:

(1) All written actions modifying wage determinations received by the contracting agency before contract award, or modifications to general wage determinations notices of which are published in the **Federal Register** before award, shall be effective.

(2) If an effective wage modification is received by the contracting officer before award, the contracting officer shall follow the procedures in 22.404-5(c)(3) or (4).

(3) If an effective wage modification is received by the contracting officer after award, the contracting officer shall follow the procedures in 22.404-6(b)(5).

22.404-7 Correction of wage determinations containing clerical errors.

Upon the Labor Department's own initiative or at the request of the contracting agency, the Administrator, Wage and Hour Division, may correct any wage determination found to contain clerical errors. Such corrections shall be effective immediately and shall apply to any solicitation or active contract. The contracting officer shall follow the procedures in 22.404-5(b)(1) or (2)(i) or (ii) in sealed bidding, 22.404-5(c)(3) or (4) in negotiations, and 22.404-6(b)(5) after contract award.

22.404-8 Notification of improper wage determination before award.

(a) Written notification by the Department of Labor received by the contracting officer prior to award that (1) a solicitation includes the wrong wage determination or the wrong rate schedule or (2) a wage determination is withdrawn by the Department of Labor as a result of a decision by the Wage Appeals Board, shall be effective immediately without regard to 22.404-6.

(b) In sealed bidding, the contracting officer shall proceed in accordance with the following:

(1) If the notification reaches the contracting officer before bid opening, the contracting officer shall postpone the bid opening date, if necessary, to allow a reasonable time to (i) obtain the appropriate determination if a new wage determination is required, (ii) amend the solicitation to incorporate the determination (or rate schedule), and (iii) permit bidders to amend their bids. If the appropriate wage determination does not change any wage rates and would not warrant amended bids, the contracting officer shall amend the solicitation to include the number and date of the new determination.

(2) If the notification reaches the contracting officer after bid opening but before award, the contracting officer shall delay awarding the contract, if necessary, and if required, obtain the appropriate wage determination. The appropriate wage determination shall be processed in accordance with 22.404-5(b)(2)(i) or (ii).

(c) In negotiated acquisitions, the contracting officer shall delay award, if necessary, and process the notification in the manner prescribed for a new wage determination at 22.404-5(c)(3).

22.404-9 Award of contract without required wage determination.

(a) If a contract is awarded without the required wage determination (i.e., incorporating no determination, containing a clearly inapplicable general wage determination, or containing a project determination which is inapplicable because of an inaccurate description of the project or its location), the contracting officer shall initiate action to incorporate the required determination in the contract immediately upon discovery of the error. If a required wage determination (valid determination in effect on the date of award) is not available, the contracting officer shall expeditiously request a wage determination from the Department of Labor, including a statement explaining the circumstances and giving the date of the contract award.

(b) The contracting officer shall—

(1) Modify the contract to incorporate the required wage determination (retroactive to the date of award), and equitably adjust the contract price if appropriate; or

(2) Terminate the contract.

22.404-10 Posting wage determinations and notice.

The contractor is required to keep a copy of the wage determination (and any approved additional classifications) posted at the site of the work in a prominent place where it can be easily seen by the workers. The contracting officer shall furnish to the contractor, Department of Labor Form WH-1321, Notice to Employees Working on Federal and Federally Financed Construction Projects, for posting with the wage rates. The name, address, and telephone number of the Government officer responsible for the administration of the contract shall be indicated in the poster to inform workers to whom they may submit complaints or raise questions concerning labor standards.

22.404-11 Wage determination appeals.

The Secretary of Labor has established a Wage Appeals Board which decides appeals of final decisions made by the Department of Labor concerning Davis-Bacon Act wage determinations. A contracting agency or other interested party may file a petition for review under the procedures in 29 CFR Part 7 if reconsideration by the Administrator has been sought pursuant to 29 CFR 1.8 and denied.

22.405 Labor standards for construction work performed under facilities contracts.

If it is not certain at the time of contract award that construction work may be required under a facilities contract (see 45.301), the clause at 52.222-17, Labor Standards for Construction Work—Facilities Contracts (see 22.407(c)) shall be included in the contract. When covered construction work is necessary after contract award, the contracting officer shall obtain the appropriate wage determination and incorporate it in the contract and identify the item or items of construction work to which the clauses apply.

22.406 Administration and Enforcement.

22.406-1 Policy.

(a) *General.* Contracting agencies are responsible for ensuring the full and impartial enforcement of labor standards in the administration of construction contracts. Contracting agencies shall maintain an effective program that shall include—

(1) Ensuring that contractors and subcontractors are informed, before commencement of work, of their obligations under the labor standards clauses of the contract;

(2) Adequate payroll reviews, on-site inspections, and employee interviews to determine compliance by the contractor and subcontractors, and prompt initiation of corrective action when required;

(3) Prompt investigation and disposition of complaints; and

(4) Prompt submission of all reports required by this subpart.

(b) *Preconstruction letters and conferences.* Before construction begins, the contracting officer shall inform the contractor of the labor standards clauses and wage determination requirements of the contract and of the contractor's and any subcontractor's responsibilities under the contract. Unless it is clear that the contractor is fully aware of the requirements, the contracting officer shall issue an explanatory letter and/or arrange a conference with the contractor promptly after award of the contract.

22.406-2 Wages, fringe benefits, and overtime.

(a) In computing wages paid to a laborer or mechanic, the contractor may include only the following items:

(1) Amounts paid in cash to the laborer or mechanic, or deducted from payments under the conditions set forth in 29 CFR 3.5.

(2) Contributions (except those required by Federal, State, or local law) the contractor makes irrevocably to a trustee or a third party under any bona fide plan or program to provide for medical or hospital care, pensions, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, or any other bona fide fringe benefit.

(3) Other contributions or anticipated costs for bona fide fringe benefits to the extent expressly approved by the Secretary of Labor.

(b)(1) The contractor may satisfy the obligation under the clause at 52.222-6, Davis-Bacon Act, by providing wages consisting of any combination of contributions or costs as specified in paragraph (a) of this subsection, if the total cost of the combination is not less than the total of the basic hourly rate and fringe benefits payments prescribed in the wage determination for the classification of laborer or mechanic concerned.

(2) Wages provided by the contractor and fringe benefits payments required by the wage determination may include items that are not stated as exact cash amounts. In these cases, the hourly cash equivalent of the cost of these items shall be determined by dividing the employer's contributions or costs by the employee's hours worked during the period covered by the costs or contributions. For example, if a contractor pays a monthly health insurance premium of $112 for a particular employee who worked 125 hours during the month, the hourly cash equivalent is determined by dividing $112 by 125 hours, which equals $0.90 per hour. Similarly, the calculation of hourly cash equivalent for nine paid holidays per year for an employee with an hourly rate of pay of $5.00 is determined by multiplying $5.00 by 72 (9 days at 8 hours each), and dividing the result of $360 by the number of hours worked by the employee during the year. If the interested parties (contractor, contracting officer, and employees or their representative) cannot agree on the cash equivalent, the contracting officer shall submit the question for final determination to the Department of Labor as prescribed by agency procedures. The information submitted shall include—

(i) A comparison of the payments, contributions, or costs in the wage determination with those made or proposed as equivalents by the contractor; and

(ii) The comments and recommendations of the contracting officer.

(c) In computing required overtime payments, (i.e., 1½ times the basic hourly rate of pay) the contractor shall use the basic hourly rate of pay in the wage determination, or the basic hourly rate actually paid by the contractor, if higher. The basic rate of pay includes employee contributions to fringe benefits, but excludes the contractor's contributions, costs, or payment of cash equivalents for fringe benefits. Overtime shall not be computed on a rate lower than the basic hourly rate in the wage determination.

22.406-3 Additional classifications.

(a) If any laborer or mechanic is to be employed in a classification that is not listed in the wage determination applicable to the contract, the contracting officer, pursuant to the clause at 52.222-6, Davis-Bacon Act, shall require that the contractor submit to the contracting officer, Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, which, along with other pertinent data, contains the proposed additional classification and minimum wage rate including any fringe benefits payments.

(b) Upon receipt of SF 1444 from the contractor, the contracting officer shall review the request to determine whether it meets the following criteria:

(1) The classification is appropriate and the work to be performed by the classification is not performed by any classification contained in the applicable wage determination.

(2) The classification is utilized in the area by the construction industry.

(3) The proposed wage rate, including any fringe benefits, bears a reasonable relationship to the wage rates in the wage determination in the contract.

(c)(1) If the criteria in paragraph (b) of this section are met and the contractor and the laborers or mechanics to be employed in the additional classification (if known) or their representatives agree to the proposed additional classification, and the contracting officer approves, the contracting officer shall submit a report (including a copy of SF 1444) of that action to the Administrator, Wage and Hour Division, for approval, modification, or disapproval of the additional classification and wage rate (including any amount designated for fringe benefits); or

(2) If the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed additional classification, or if the criteria are not met, the contracting officer shall submit a report (including a copy of SF 1444) giving the views of all interested parties and the contracting officer's recommendation to the Administrator, Wage and Hour Division, for determination of appropriate classification and wage rate.

(d)(1) Within 30 days of receipt of the report, the Administrator, Wage and Hour Division, will complete action and so advise the contracting officer, or will notify the contracting officer that additional time is necessary.

(2) Upon receipt of the Department of Labor's action, the contracting officer shall forward a copy of the action to the contractor, directing that the classification and wage rate be posted in accordance with paragraph (a) of the clause at 52.222-6 and that workers in the affected classification receive no less than the minimum rate indicated from the first day on which work under the contract was performed in the classification.

22.406-4 Apprentices and trainees.

(a) The contracting officer shall review the contractor's employment and payment records of apprentices and trainees made available pursuant to the clause at 52.222-8, Payrolls and Basic Records, to ensure that the contractor has complied with the clause at 52.222-9, Apprentices and Trainees.

(b) If a contractor has classified employees as apprentices or trainees without complying with the requirements of the clause at 52.222-9, the contracting officer shall reject the classification and require the contractor to pay the affected employees at the rates applicable to the classification of the work actually performed.

22.406-5 Subcontracts.

In accordance with the requirements of the clause at 52.222-11, Subcontracts (Labor Standards), the contractor and subcontractors at any tier are required to submit a fully executed SF 1413, Statement and Acknowledgment, upon award of each subcontract.

22.406-6 Payrolls and statements.

(a) *Submission.* In accordance with the clause at 52.222-8, Payrolls and Basic Records, the contractor must submit or cause to be submitted, within 7 calendar days after the regular payment date of the payroll week covered, for the contractor and each subcontractor, (1) copies of weekly payrolls applicable to the contract, and (2) weekly payroll statements of

compliance. The contractor may use the Department of Labor Form WH-347, Payroll (For Contractor's Optional Use), or a similar form that provides the same data and identical representation.

(b) *Withholding for nonsubmission.* If the contractor fails to submit copies of its or its subcontractors' payrolls promptly, the contracting officer shall, from any payment due to the contractor, withhold approval of an amount that the contracting officer considers necessary to protect the interest of the Government and the employees of the contractor or any subcontractor.

(c) *Examination.* (1) The contracting officer shall examine the payrolls and payroll statements to ensure compliance with the contract and any statutory or regulatory requirements. Particular attention should be given to—

(i) The correctness of classifications and rates;

(ii) Fringe benefits payments;

(iii) Hours worked;

(iv) Deductions; and

(v) Disproportionate employment ratios of laborers, apprentices, or trainees, to journeymen.

(2) Fringe benefits payments, contributions made, or costs incurred on other than a weekly basis shall be considered as a part of weekly payments to the extent they are creditable to the particular weekly period involved and are otherwise acceptable.

(d) *Preservation.* The contracting agency shall retain payrolls and statements of compliance for 3 years after completion of the contract and make them available when requested by the Department of Labor at any time during that period. Submitted payrolls shall not be returned to a contractor or subcontractor for any reasons, but copies thereof may be furnished to the contractor or subcontractor who submitted them, or to a higher tier contractor or subcontractor.

(e) *Disclosure of payroll records.* Contractor payroll records in the Government's possession must be carefully protected from any public disclosure which is not required by law, since payroll records may contain information in which the contractor's employees have a privacy interest, as well as information in which the contractor may have a proprietary interest that the Government may be obliged to protect. Questions concerning release of this information may involve the Freedom of Information Act (FOIA).

22.406-7 Compliance checking.

(a) *General.* The contracting officer shall make checks and investigations on all contracts covered by this subpart as may be necessary to ensure compliance with the labor standards requirement of the contract.

(b) *Regular compliance checks.* Regular compliance checking includes the following activities:

(1) Employee interviews to determine correctness of classifications, rates of pay, fringe benefits payments, and hours worked. (See Standard Form 1445.)

(2) On-site inspections to check type of work performed, number and classification of workers, and fulfillment of posting requirements.

(3) Payroll reviews to ensure that payrolls of prime contractors and subcontractors have been submitted on time and are complete and in compliance with contract requirements.

(4) Comparison of the information in this paragraph (b) with available data, including daily inspector's report and daily logs of construction, to ensure consistency.

(c) *Special compliance checks.* Situations that may require special compliance checks include—

(1) Inconsistencies, errors, or omissions detected during regular compliance checks; or

(2) Receipt of a complaint alleging violations. If the complaint is not specific enough, the complainant shall be so advised and invited to submit additional information.

22.406-8 Investigations.

Contracting agencies are responsible for conducting labor standards investigations when available information indicates such action is warranted. In addition, the Department of Labor may conduct an investigation on its own initiative or may request a contracting agency to do so.

(a) *Contracting agencies.* The contracting agency shall conduct an investigation if a compliance check (see 22.406-7) indicates that violations may have occurred that are substantial in amount, willful, or not corrected. (See also 22.406-9(a) regarding withholding from contract payments.) The investigation shall include all aspects of the contractor's compliance with contract labor standards requirements, and shall not be limited to specific areas raised in a complaint or uncovered during compliance checks. The investigation should be made by personnel familiar with labor laws and their application to contracts. If oral or written statements are taken from employees during an investigation, the statements, or excerpts or summaries thereof, shall not be divulged to anyone other than authorized Government officials without the prior signed consent of the employee. Investigators may use the investigation and enforcement instructions issued by and available upon written request from the Administrator, Wage and Hour Division. Any available Department of Labor files pertinent to an investigation may be obtained upon written request to the Administrator, Wage and Hour Division. None of the material obtained from Labor Department files, other than computations of back wages and liquidated damages and summaries of back wages due, may be disclosed in any manner to any one other than responsible Federal officials charged with administering the contract, without obtaining the permission of the Department of Labor.

(b) *Review of the investigation report.* The contracting officer shall review the investigation report on receipt and make preliminary findings regarding the contractor. Adverse findings that are not supported by other evidence shall not normally be based solely on employee statements that have not been authorized for disclosure by the employee. However, if the investigation establishes a pattern of possible violations that are based on employees' statements that have not been authorized for disclosure, the pattern itself may constitute a suitable basis for a finding of noncompliance.

(c) *Notification to the contractor.* The contracting officer shall take the following actions upon completing the review:

(1) Provide written notice to the contractor concerning the preliminary findings, proposed corrective actions, and the contractor's right to request that the basis for the findings be made available and to submit written rebuttal information within a reasonable period of time.

(2) Upon request from the contractor, make the basis for the findings available. However, under no circumstances will the contractor be permitted to examine the investigation report. Also, the contracting officer shall not disclose the identity of any employee who filed a complaint or who was interviewed, without the prior consent of the employee.

(3)(i) If the contractor submits a rebuttal, reconsider the preliminary findings based on information brought out by the rebuttal and notify the contractor of the final findings.

(ii) If no rebuttal is submitted within a reasonable time, the preliminary findings shall be considered final.

(4) Request the contractor to make restitution for underpaid wages and liquidated damages determined by the contracting officer to be due, whether

the violation is considered willful or nonwillful. If the request includes liquidated damages, it shall contain a written statement that the contractor may within 60 days request relief from such assessment.

(d) *Contracting officer's report.* (1) After taking the actions prescribed in paragraphs (b) and (c) of this section, the contracting officer shall prepare and forward a report of violations including findings and supporting evidence to the agency head or designee. Standard Form 1446, Labor Standards Investigation Summary Sheet, shall be completed and attached as the first page of the report.

(2) After reviewing the contracting officer's report, the agency head or the agency head's designee, shall process the report as follows:

(i) A detailed enforcement report shall be submitted to the Administrator, Wage and Hour Division within 60 days after completion of the investigation, if—

(A) Underpayments by a contractor or subcontractor total $1,000 or more;

(B) There is reason to believe that the violations are aggravated or willful (or, also, in the case of the Davis-Bacon Act, there is reason to believe that the contractor has disregarded its obligations to employees and subcontractors);

(C) Restitution has not been effected; or

(D) Future compliance has not been assured.

(ii) If none of the conditions in paragraph (d)(2)(i) of this section is present but the investigation was expressly requested by the Department of Labor, only a summary report shall be submitted to the Administrator, Wage and Hour Division. The report shall summarize any violations, including any data on the amount of restitution paid, the number of workers who received restitution, liquidated damages assessed under the Contract Work Hours and Safety Standards Act, corrective measures taken and any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages.

(iii) If none of the conditions in paragraph (d)(2) (i) or (ii) of this section is present, the case shall be closed and the report retained in the appropriate contract file.

(iv) If substantial evidence is found that violations are willful and in violation of a criminal statute (generally 18 U.S.C. 874 or 1001) the report (supplemented if necessary) also shall be forwarded to the Attorney General of the United States for prosecution if the facts warrant. In all such cases, the Administrator, Wage and Hour Division, shall be informed simultaneously of the action taken.

(e) *Department of Labor investigations.* In investigations conducted by the Department of Labor which disclose (1) underpayments totaling $1,000 or more, (2) aggravated/willful violations (or, in the case of the Davis-Bacon Act, there is reason to believe that the contractor has disregarded its obligations to employees and subcontractors), or (3) potential assessment of liquidated damages under the Contract Work Hours and Safety Standards Act, the Department of Labor will furnish the concerned contracting agency an enforcement report detailing violations found and any action taken by the contractor to correct such violations, including any payment of back wages. In investigations disclosing other than in this paragraph (e), the agency will be furnished a letter of notification summarizing the findings of the investigation.

22.406-9 Withholding from or suspension of contract payments.

(a) *Withholding from contract payments.* If the contracting officer believes a violation exists (see 22.406-8), or upon request of the Department of Labor, the contracting officer shall withhold from payments due the contractor an amount equal to the estimated wage underpayment as well as any estimated liquidated damages due the United States under the Contract Work Hours and Safety Standards Act. (See 22.302.)

(1) Pursuant to the clauses at 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation and 52.222-7, Withholding of Funds, cross-withholding of funds from any current Federal contract with the same prime contractor, or from any Federally assisted contract with the same prime contractor which is subject to either Davis-Bacon prevailing wage requirements or Contract Work Hours and Safety Standards Act requirements, respectively, is authorized.

(2) If subsequent investigation confirms violations, the contracting officer shall adjust the withholding as necessary. If the withholding was requested by the Department of Labor, the contracting officer shall not reduce or release the withholding without written approval of the Department of Labor.

(3) The withheld funds shall be used as provided in paragraph (c) of this section to satisfy assessed liquidated damages and, unless the contractor makes restitution, validated wage underpayments.

(b) *Suspension of contract payments.* If a contractor or subcontractor fails or refuses to comply with the labor standards clauses of the Davis-Bacon Act and Related Statutes, the agency upon its own action or upon the written request of an authorized representative of the Department of Labor, shall suspend or cause to be suspended any further payment, advance, or guarantee of funds until the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled, and to cover any liquidated damages which may be due.

(c) *Disposition of contract payments withheld or suspended*—(1) *Forwarding wage underpayments to the Comptroller General.* Upon final administrative determination, if restitution has not been made by the contractor or subcontractor, the contracting officer shall forward to the appropriate disbursing office Standard Form (SF) 1093, Schedule of Withholdings Under the Davis-Bacon Act (40 U.S.C. 276a) and/or Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). The contracting officer shall include with the SF 1093 a listing of the name, social security number, and last known address of each affected employee; the amount due each employee; employee claims if feasible; and a brief statement of the reason for requiring restitution. Also, the contracting officer shall indicate if restitution was not made because the employee could not be located. Underpaid employees may be assisted in the preparation of their claims. The disbursing office shall submit the SF 1093 with attached additional data and the funds withheld (by check) to the Comptroller General (Claims Division).

(2) *Returning of withheld funds to contractor.* When funds withheld are no longer necessary or exceed the amount required to satisfy validated wage underpayments and assessed liquidated damages, these funds shall be paid the contractor in an expeditious manner.

(3) *Limitation on forwarding or returning funds.* If the withholding was requested by the Department of Labor or if the findings are disputed (see 22.406-10(e)), the contracting officer shall not forward the funds to the Comptroller General, Claims Division, or return them to the contractor without approval by the Department of Labor.

(4) *Liquidated damages.* Upon final administrative determination, funds withheld or collected for liquidated damages shall be disposed of in accordance with agency procedures.

22.406-10 Disposition of disputes concerning construction contract labor standards enforcement.

(a) The areas of possible differences of opinion between contracting officers and contractors in construction contract labor standards enforcement include—

(1) Misclassification of workers;

(2) Hours of work;

(3) Wage rates and payment;

(4) Payment of overtime;

(5) Withholding practices; and

(6) The applicability of the labor standards requirements under varying circumstances.

(b) Generally, these differences are settled administratively at the project level by the contracting agency. If necessary, these differences may be settled with assistance from the Department of Labor.

(c) When requesting the contractor to take corrective action in labor violation cases, the contracting officer shall inform the contractor of the following:

(1) Disputes concerning the labor standards requirements of the contract are handled under the contract clause at 52.222-14, Disputes Concerning Labor Standards, and not under the clause at 52.233-1, Disputes.

(2) The contractor may appeal the contracting officer's findings or part thereof by furnishing the contracting officer a complete statement of the reasons for the disagreement with the findings.

(d) The contracting officer shall promptly transmit the contracting officer's findings and the contractor's statement to the Administrator, Wage and Hour Division.

(e) The Administrator, Wage and Hour Division, will respond directly to the contractor or subcontractor, with a copy to the contracting agency. The contractor or subcontractor may appeal the Administrator's findings in accordance with the procedures outlined in Labor Department Regulations (29 CFR 5.11). Hearings before administrative law judges are conducted in accordance with 29 CFR Part 6, and hearings before the Labor Department Wage Appeals Board are conducted in accordance with 29 CFR Part 7.

(f) The Administrator, Wage and Hour Division, may institute debarment proceedings against the contractor or subcontractor if the Administrator finds reasonable cause to believe that the contractor or subcontractor has committed willful or aggravated violations of the Contract Work Hours and Safety Standards Act or the Copeland (Anti-Kickback) Act, or any of the applicable statutes listed in 29 CFR 5.1 other than the Davis-Bacon Act, or has committed violations of the Davis-Bacon Act that constitute a disregard of its obligations to employees or subcontractors under section 3(a) of that Act.

22.406-11 Contract terminations.

If a contract or subcontract is terminated for violation of the labor standards clauses, the contracting agency shall submit a report to the Administrator, Wage and Hour Division, and the Comptroller General. The report shall include—

(a) The number of the terminated contract;

(b) The name and address of the terminated contractor or subcontractor;

(c) The name and address of the contractor or subcontractor, if any, who is to complete the work;

(d) The amount and number of the replacement contract, if any; and

(e) A description of the work.

22.406-12 Cooperation with the Department of Labor.

(a) The contracting agency shall cooperate with representatives of the Department of Labor in the inspection of records, interviews with workers, and all other aspects of investigations undertaken by the Department of Labor. When requested, the contracting agency shall furnish to the Secretary of Labor any available information on contractors, subcontractors, current and previous contracts, and the nature of the contract work.

(b) If a Department of Labor representative undertakes an investigation at a construction project, the contracting officer shall inquire into the scope of the investigation, and request to be notified immediately of any violations discovered under the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, or the Copeland (Anti-Kickback) Act.

22.406-13 Semiannual enforcement reports.

A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482-DOL-SA.

22.407 Contract clauses.

(a) The contracting officer shall insert the following clauses in solicitations and contracts in excess of $2,000 for construction within the United States:

(1) The clause at 52.222-6, Davis-Bacon Act.

(2) The clause at 52.222-7, Withholding of Funds.

(3) The clause at 52.222-8, Payrolls and Basic Records.

(4) The clause at 52.222-9, Apprentices and Trainees.

(5) The clause at 52.222-10, Compliance with Copeland Act Requirements.

(6) The clause at 52.222-11, Subcontracts (Labor Standards).

(7) The clause at 52.222-12, Contract Termination—Debarment.

(8) The clause at 52.222-13, Compliance with Davis-Bacon and Related Act Regulations.

(9) The clause at 52.222-14, Disputes Concerning Labor Standards.

(10) The clause at 52.222-15, Certification of Eligibility.

(b) The contracting officer shall insert the clause at 52.222-16, Approval of Wage Rates, in solicitations and contracts in excess of $2,000 for cost-reimbursement construction to be performed within the United States, except for contracts with a State or political subdivision thereof.

(c) A contract that is not primarily for construction may contain a requirement for some construction work to be performed in the United States. If under 22.402(b) the requirements of this subpart apply to the construction work, the contracting officer shall insert in such solicitations and contracts the applicable construction labor standards clauses required in this section and identify the item or items of construction work to which the clauses apply.

(d) The contracting officer shall insert the clause at 52.222-17, Labor Standards for Construction Work—Facilities Contracts, in solicitations and contracts, if a facilities contract (see 45.301) may require covered construction work (see 22.402(b)) to be performed in the United States.

22.604-1 [Amended]

6. Section 22.604-1 is amended in paragraph (a) by removing the words "negotiated under 15.202" and inserting in their place the words "made under the conditions described in 6.302-2".

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS

7. Section 50.307 is amended by revising paragraph (b) as follows:

50.307 Contract requirements.

* * * * *

(b) The authority in 50.101(a) shall not be used to omit from contracts, when otherwise required, the clauses at 52.203–5, Covenant Against Contingent Fees; 52.215–1, Examination of Records by Comptroller General; 52.222–4, Contract Work Hours and Safety Standards Act—Overtime Compensation; 52.222–6, Davis-Bacon Act; 52.222–10, Compliance With Copeland Act Requirements; 52.222–20, Walsh-Healey Public Contracts Act; 52.222–26, Equal Opportunity; and 52.232–23, Assignment of Claims.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Sections 52.222–6 through 52.222–17 are added to read as follows:

52.222–6 Davis-Bacon Act.

As prescribed in 22.407(a), insert the following clause:

Davis-Bacon Act (Feb 1988)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled *Apprentices and Trainees*. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; *provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for Determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; *provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

52.222–7 Withholding of Funds.

As prescribed in 22.407(a), insert the following clause:

Withholding of Funds (Feb 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

52.222–8 Payrolls and Basic Records.

As prescribed in 22.407(a), insert the following clause:

Payrolls and Basic Records (Feb. 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of clause)

52.222-9 Apprentices and Trainees.

As prescribed in 22.407(a), insert the following clause:

Apprentices and Trainees (Feb. 1988)

(a) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, and 29 CFR Part 30.

(End of clause)

52.222-10 Compliance With Copeland Act Requirements.

As prescribed in 22.407(a), insert the following clause:

Compliance With Copeland Act Requirements (Feb. 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(End of clause)

52.222-11 Subcontracts (Labor Standards).

As prescribed in 22.407(a), insert the following clause:

Subcontracts (Labor Standards) (Feb. 1988)

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled *Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination—Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility,* and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(End of clause)

52.222-12 Contract Termination—Debarment.

As prescribed in 22.407(a), insert the following clause:

Contract Termination—Debarment (Feb. 1988)

A breach of the contract clauses entitled *Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance With Davis-Bacon and Related Act Regulations,* or *Certification of Eligibility* may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

52.222-13 Compliance with Davis-Bacon and Related Act Regulations.

As prescribed in 22.407(a), insert the following clause:

Compliance With Davis-Bacon and Related Act Regulations (Feb. 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and, 5 are hereby incorporated by reference in this contract.

(End of clause)

52.222-14 Disputes Concerning Labor Standards.

As prescribed in 22.407(a), insert the following clause:

Disputes Concerning Labor Standards (Feb. 1988)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

52.222-15 Certification of eligibility.

As prescribed in 22.407(a), insert the following clause:

Certification of Eligibility (Feb. 1988)

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(End of clause)

52.222-16 Approval of Wage Rates.

As prescribed in 22.407(b), insert the following clause:

Approval of Wage Rates (Feb. 1988)

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this contract must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the contract. Any amount paid by the Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Contractor and shall not be reimbursed by the Government. If the Government refuses to authorize the use of the overtime, the Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

(End of clause)

52.222-17 Labor Standards for Construction Work—Facilities Contracts.

As prescribed in 22.407(d), insert the following clause:

Labor Standards for Construction Work—Facilities Contracts (Feb. 1988)

(a) In the event that construction, alteration, or repair (including painting and decorating) of public buildings or public works is to be performed hereunder, the Contractor shall comply with the following listed clauses of the Federal Acquisition Regulation in performance of such work:

(1) Contract Work Hours and Safety Standards Act—Overtime Compensation at 52.222-4.

(2) Davis-Bacon Act at 52.222-6.

(3) Withholding of Funds at 52.222-7.

(4) Payrolls and Basic Records at 52.222-8.

(5) Apprentices and Trainees at 52.222-9.

(6) Compliance With Copeland Act Requirements at 52.222-10.

(7) Subcontracts (Labor Standards) at 52.222-11.

(8) Contract Termination—Debarment at 52.222-12.

(9) Compliance with Davis-Bacon and Related Act Regulations at 52.222-13.

(10) Disputes Concerning Labor Standards at 52.222-14.

(11) Certification of Eligibility at 52.222-15.

(b) Upon determination by the Contracting Officer that the Davis-Bacon Act is applicable to any item of work to be performed hereunder, a determination of the prevailing wage rates shall be incorporated into the contract by modification.

(c) No construction, alteration, or repair (including painting and decorating) of public buildings or public works shall be performed under this contract without incorporation of the wage determination unless the Contracting Officer authorizes the start of work because of unusual or emergency situations, in which case the wage determination shall be incorporated as soon as possible and made retroactive to the start of the work.

(End of clause)

PART 53—FORMS

9. Section 53.222 is amended by revising the section title and paragraphs (c), (d), and (e); by redesignating and revising paragraph (f) as as (i); and by adding paragraphs (f), (g), and (h) to read as follows:

53.222 Application of labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH-347).

* * * * *

(c) SF 308 (DOL) (6/72), *Request for Determination and Response to Request.* (See 22.404-3 (a) and (b).)

(d) SF 1093 (GAO) (10/71), *Schedule of Withholdings under the Davis-Bacon Act and/or the Contract Work Hours and Safety Standards Act.* (See 22.406-9(c)(1).)

(e) SF 1413 (10/83), *Statement and Acknowledgment* SF 1413 is prescribed for use in obtaining contractor acknowledgment of inclusion of required clauses in subcontracts, as specified in 22.406-5.

(f) Form SF 1444 (10/87), *Request for Authorization of Additional Classification and Rate.* (See 22.406-3(a) and 22.1019.)

(g) SF 1445 (10/87), *Labor Standards Interview.* (See 22.406-7(b).)

(h) SF 1446 (10/87), *Labor Standards Investigation Summary Sheet.* (See 22.406-8(d).)

(i) Form WH-347 (DOL), *Payroll (for Contractor's Optional Use).* (See 22.406-6(a).)

53.236-1 [Amended]

10. Section 53.236-1 is amended by redesignating paragraph (b) as (c); by redesignating paragraph (c) as (b); by redesignating paragraph (d) as (e); by reserving paragraph (d); and by redesignating paragraph (e) as (f).

11. Section 53.301-1444, (Standard Form 1444) is added to read as follows:

BILLING CODE 6820-61-M

53.301-1444 Request for Authorization of Additional Classification and Rate.

FORM APPROVED OMB NO. 9000-0089

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX
☐ SERVICE CONTRACT
☐ CONSTRUCTION CONTRACT

NOTE: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16 AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER

1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210	2. FROM: (REPORTING OFFICE)
3. CONTRACTOR	4. DATE OF REQUEST

5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)

10. SUBCONTRACTOR (IF ANY)

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)

12. LOCATION (CITY, COUNTY AND STATE)

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: _____ DATED: _____

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) (Use reverse or attach additional sheets, if necessary)	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE	
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX—REFERENCING BLOCK 13. ☐ AGREE ☐ DISAGREE

TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE—SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA)

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

(Send copies 1, 2, and 3 to Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NO.	DATE SUBMITTED

NSN 7540-01-268-0531

DEPARTMENT OF LABOR

GPO: 1987 200-498 (m)

STANDARD FORM 1444 (10-87)
Prescribed by GSA
FAR (48 CFR) 53.222(f)
1444-101

12. Section 53.301-1445 (Standard Form 1445) is added to read as follows:

53.301-1445 Labor Standards Interview.

LABOR STANDARDS INTERVIEW			FORM APPROVED OMB NO. 9000-0089
CONTRACT NUMBER	EMPLOYEE'S NAME *(Last, First, M.I.)*		
NAME OF PRIME CONTRACTOR	EMPLOYEE'S ADDRESS *(Street, City, State, ZIP Code)*		
NAME OF EMPLOYER	WORK CLASSIFICATION	WAGE RATE	
	SUPERVISOR'S NAME *(Last, First, M.I.)*		

	(Check Below) YES	NO
DO YOU WORK OVER 8 HOURS PER DAY?		
DO YOU WORK OVER 40 HOURS PER WEEK?		
ARE YOU PAID AT LEAST TIME AND A HALF FOR OVERTIME HOURS?		
ARE YOU RECEIVING ANY CASH PAYMENTS FOR FRINGE BENEFITS REQUIRED BY THE POSTED WAGE DETERMINATION DECISION?		

WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?

HOURS	WHAT DATE *(YYMMDD)* WAS THAT?

WHAT TOOLS DO YOU USE?

WHEN DID YOU BEGIN WORK ON THIS PROJECT *(YYMMDD)*?

I HAVE READ THE ABOVE AND CERTIFY IT TO BE CORRECT TO THE BEST OF MY KNOWLEDGE.

EMPLOYEE'S SIGNATURE	DATE *(YYMMDD)*
INTERVIEWER'S SIGNATURE	DATE *(YYMMDD)*

INTERVIEWER'S COMMENTS

WORK EMPLOYEE WAS DOING WHEN INTERVIEWED

IS EMPLOYEE PROPERLY CLASSIFIED AND PAID? *(If additional space is needed, use comments section)*

☐ YES ☐ NO

ARE WAGE RATES AND POSTERS DISPLAYED?

☐ YES ☐ NO

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?

☐ YES ☐ NO

COMMENTS

DATE OF CHECK *(YYMMDD)*	NAME OF CHECKER *(Last, First, M.I.)*	JOB TITLE	SIGNATURE

NSN 7540-01-268-0632

GPO: 1987 280-488 (#4)

1445-101

STANDARD FORM 1445 (10-87)
Prescribed by GSA
FAR (48 CFR) 53.222(g)

13. Section 53.301–1446 (Standard Form 1446) is added to read as follows:

53.301–1446 Labor Standards Investigation Summary Sheet.

LABOR STANDARDS INVESTIGATION SUMMARY SHEET		FORM APPROVED OMB NO. 9000–0089
		CONTRACT NUMBER
REPORTING OFFICE	CONTRACT AMOUNT	DATE OF CONTRACT
TYPE OF CONTRACT ☐ FIXED PRICE ☐ CPFF ☐ OTHER (Specify)		
CONTRACTOR'S NAME AND ADDRESS (Include ZIP Code)	EMPLOYER'S NAME AND ADDRESS (Include ZIP Code) (If other than prime contractor)	
PROJECT AND LOCATION		
DESCRIPTION OF WORK		
BASIS FOR INVESTIGATION		
WAGE DETERMINATION NUMBER	WAGE DETERMINATION DATE	
NATURE AND EXTENT OF VIOLATION		
NO. EMPLOYEES INVOLVED	ARE VIOLATIONS CONSIDERED WILLFUL? ☐ YES ☐ NO	COPELAND ACT VIOLATIONS ☐ YES ☐ NO
DAVIS-BACON ACT UNDERPAYMENTS $	CWHSSA [1] UNDERPAYMENTS $	CWHSSA [1] LAW VIOLATIONS $
CORRECTIVE ACTIONS TAKEN		
RESTITUTION MADE ☐ YES ☐ NO	AMOUNT OF RESTITUTION $	CONTRACTORS PAYMENT WITHHELD ☐ YES ☐ NO
WITHHELD FOR DAVIS-BACON VIOLATIONS $	WITHHELD FOR CWHSSA [1] UNDERPAYMENTS $	WITHHELD FOR CWHSSA [1] VIOLATIONS $
REMARKS		
PREPARED BY		
DATE	TITLE	SIGNATURE

[1] Contract Work Hours and Safety Standards Act

NSN 7540-01-288-0833 1446-101 STANDARD FORM 1446 (10-87) Prescribed by GSA FAR (48 CFR) 53.222(h)

GPO: 1987 288-488 (44)

[FR Doc. 88–3381 Filed 2–17–88; 8:45 am]

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Thursday, February 18, 1988

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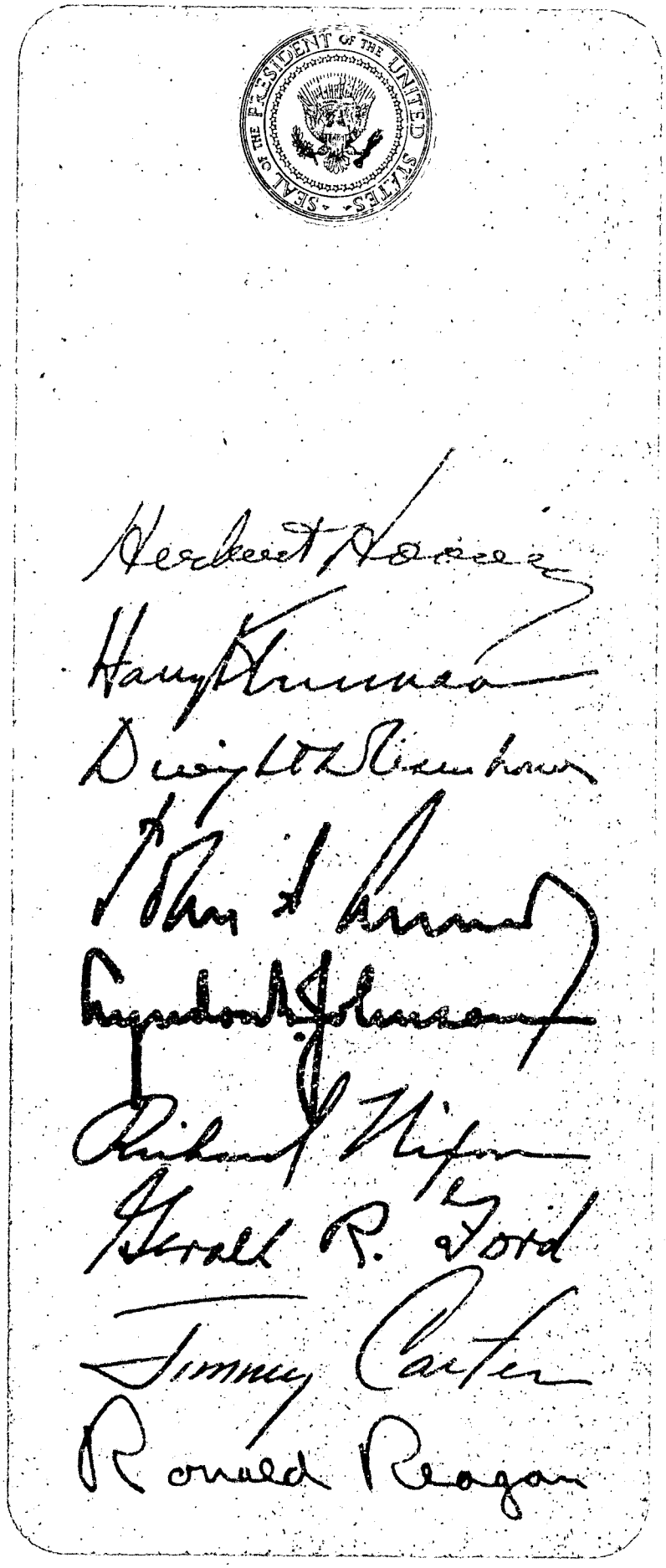

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