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federal register

Thursday
October 17, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Atlanta, GA, see announcement on the inside cover of this issue.

Selected Subjects

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: Nov. 21; at 1 pm.
Nov. 22; at 9 am. (identical session)

WHERE: Room LP-7,
Richard B. Russell Federal Building,
75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Deborah Hogan,
Atlanta Federal Information Center.
Before Nov. 12: 404-221-2170
On or after Nov. 12: 404-331-2170

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. The January 1986 Washington, D.C. workshop will include facilities for the hearing impaired. Dates and locations will be announced later.

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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees' Group Life Insurance Program and Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations under the Federal Employees' Group Life Insurance (FEGLI) and Federal Employees Health Benefits (FEHB) Programs to permit annuitants whose disability annuities were terminated and later restored to elect to re-enroll for health benefits coverage and resume any life insurance coverage the individual may have had immediately before his or her annuity was terminated. The regulations permit prospective coverage, upon proper application after September 15, 1985, for any disability annuitant whose annuity has been restored since December 31, 1983, or is restored in the future.

DATES: Interim regulations are effective June 17, 1985; comments must be received on or before November 18, 1985.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or delivered to OPM, Room 4351, 1900 E Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Agatha Gray, (202) 632-0003.

SUPPLEMENTARY INFORMATION: Pub. L. 99-53, approved June 17, 1985, amended the laws applicable to the FEGLI and FEHB Programs to permit a disability annuitant who was enrolled in the FEGLI or FEHB Program and whose annuity has been terminated the right to resume participation in the Programs if such annuity is restored after December 31, 1983. The law directs OPM to notify disability annuitants, beginning September 15, 1985 (i.e., the 90th day after enactment of Pub. L. 99-53), of insurance eligibility due to annuity restoration and to prescribe regulations establishing procedures for restoration of health and life insurance coverages. Annuitants will have 60 days from the notification date to make an election. Coverage will be prospective only, effective on the first day of the month after OPM receives the election. Heretofore, there was no opportunity for a restored disability annuitant to resume participation in either of the Federal employee insurance programs.

Waiver of Notice of Proposed Rulemaking

Under section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because the effective date of Pub. L. 99-53 is June 17, 1985.

E.O. 12291, Federal Regulations

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 871

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 872

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Parts 870, 871, 872, 873, and 890 as follows:

PART 870—BASIC LIFE INSURANCE

1. The authority citation for Part 870 continues to read as follows:

Authority: 5 U.S.C. 8716, unless otherwise noted.

2. Section 870.603 is added to read as follows:

§ 870.603 Reinstatement of life insurance.

(a) An annuitant whose disability annuity was terminated because of restoration to earning capacity or recovery from disability and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may elect to resume basic life insurance held immediately before his or her disability annuity was terminated. The election must be received by OPM within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) The basic life insurance of an annuitant who meets the requirements of paragraph (a) of this section is effective on the first day of the month after the date OPM receives the election form. Any annuity withholdings applicable thereto are also reinstated on the first day of the month after the date OPM receives the election form.

(c) The amount of basic life insurance reinstated under paragraph (a) of this section is the amount that would have been in force had the individual's annuity not been terminated.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. The authority citation for Part 871 continues to read as follows:

Authority: 5 U.S.C. 8716, unless otherwise noted.

4. Section 871.605 is added to read as follows:

§ 871.605 Restored disability annuitants.

(a) An annuitant whose disability annuity is terminated because of restoration to earning capacity or recovery from disability and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may elect to resume the standard optional insurance held immediately before his or her disability annuity was terminated if: (1) He or she has also made an election under § 870.603 of this chapter and (2) the election is received by OPM within 60 days after OPM mails the notice of insurance eligibility and election form.

(b) The standard optional insurance of an annuitant who meets the requirements of paragraph (a) of this section is effective on the first day of the month after the date OPM receives the election form. Any annuity withholding applicable thereto are also reinstated on the first day of the month after the date OPM receives the election form.

(c) The amount of standard optional insurance reinstated under paragraph (a) of this section is the amount that would have been in force had the individual's annuity not been terminated.

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

5. Authority citation for Part 872 continues to read as follows:

Authority: 5 U.S.C. 8716, unless otherwise noted.

6. Section 872.605 is added to read as follows:

§ 872.605 Restored disability annuitants.

(a) An annuitant whose disability annuity is terminated because of restoration to earning capacity or recovery from disability and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may elect to resume additional optional insurance held immediately before his or her disability annuity was terminated if: (1) He or she made an election under § 870.603 of this chapter and (2) the election is received by OPM within 60 days after OPM mails the notice of insurance eligibility and election form.

(b) The additional optional insurance of an annuitant who meets the requirements of paragraph (a) of this section is effective on the first day of the month after the date OPM receives the election form. Any annuity withholdings applicable thereto are also reinstated on the first day of the month after the date OPM receives the election form.

(c) The amount of additional optional insurance reinstated under paragraph (a) of this section is the amount that would have been in force had the individual's annuity not been terminated.

PART 873—FAMILY OPTIONAL LIFE INSURANCE

7. The authority citation for Part 873 continues to read as follows:

Authority: 5 U.S.C. 8716, unless otherwise noted.

8. Section 873.605 is added to read as follows:

§ 873.605 Restored disability annuitants.

(a) An annuitant whose disability annuity is terminated because of restoration to earning capacity or recovery from disability and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may elect to resume family optional insurance held immediately before his or her disability annuity was terminated if:

(1) He or she has made an election under § 870.603 of this chapter; and

(2) The election is received by OPM within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) The family optional insurance of an annuitant who meets the requirements of paragraph (a) of this section is effective on the first day of the month after the date OPM receives the election form. Any annuity withholdings applicable thereto are also reinstated on the first day of the month after OPM receives the election form.

(c) The amount of family optional insurance reinstated under paragraph (a) of this section is the amount that would have been in force had the individual's annuity not been terminated.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

9. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913.

10. Section 890.301 is amended by adding a new paragraph (z) to read as follows:

§ 890.301 Opportunity to register to enroll and change enrollment.

* * * * *

(z) *Disability annuity restored.* A disability annuitant who was enrolled in a health benefits plan under this immediately before his or her disability annuity was terminated because of restoration to earning capacity or recovery from disability, and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may register to enroll in a health benefits plan under this part within 60 days after OPM mails a notice of insurance eligibility and registration form.

11. Section 890.306 is amended by adding a new paragraph (f) to read as follows:

§ 890.306 Effective dates.

* * * * *

(f) *Restoration of disability annuity.* The effective date of enrollment under § 890.301(z) is the first day of the month after the date OPM receives the registration form.

[FR Doc 85-24713 Filed 10-16-85; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Admission Period and Extensions of Stay

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the initial maximum admission period and maximum length for extensions of stay for various categories of nonimmigrants. The Service has determined that this change will reduce the paperwork burden on the public and the Service and will not adversely affect control.

EFFECTIVE DATE: November 18, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Jeffrey D. Trecartin, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone (202) 633-3240.

SUPPLEMENTARY INFORMATION: In a continuing effort to reduce reporting requirements placed on the public and to streamline operating procedures, the Service has examined the initial admission period and extension

requirements for the following nonimmigrant classifications: A–3, employee of an A–1 or A–2 (section 101(a)(15)(A)); B–1/B–2 visitor for business or visitor for pleasure (section 101(a)(15)(B)); E–1 and E–2, treaty trader or treaty investor (section 101(a)(15)(E)); G–5, employee of G–1 thru G–4 (section 101(a)(15)(G)); I, representative of foreign information media or his or her spouse and dependents (section 101(a)(15)(I)); J–1 and J–2, exchange alien and dependents (section 101(a)(15)(J)); NATO–5 and NATO–6 civilian employee of the military of a NATO member nation; and those NATO–7 aliens employed by NATO–5 and NATO–6 aliens.

After careful analysis and consultation with the Department of State and the United States Information Agency, the Service believes that an increase in the maximum admission period and an increase in the incremental periods for extensions of stay for the listed nonimmigrants will reduce unnecessary reporting requirements, will concurrently reduce the paperwork burden on the Service, and will not adversely affect the control the Service must exercise over these categories of nonimmigrants. The affected categories have proved to be of low risk in violating their status.

The new periods of initial admission and extension of temporary stay may not exceed the following:

Nonimmigrant classification	Initial admission	Extension of stay
(1) A3	Three years (previously one year)	Two years (previously one year).
(2) B1/B2	Initial admission up to one year (same)	Six months (same; except members of a religious denomination one year; (previously six months)).
(3) E–1/E–2	Initial admission up to one year (same)	Two years (previously one year).
(4) G–5	Three years (previously one year)	Two years (previously one year).
(5) I	Duration of employment (previously one year)	Not applicable.
(6) J–1/J–2	Period of program specified on Form IAP–66 plus 30 days (previously limited to twelve months or the period of program specified on Form IAP–66 if the period of time was less than twelve months).	Period of program specified on Form IAP–66 plus 30 days (previously period of program specified on Form IAP–66).
(7) NATO–5/NATO–6	Duration of employment in U.S. with NATO member (previously one year)	Not applicable.
(8) NATO–7 employee	Two years (previously one year)	No change.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking is unnecessary because the rule will benefit the public by reducing currently imposed reporting requirements.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Foreign officials.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 is revised to read as follows:

Authority: Sections 101(a)(15) (A), (B), (E), (G), (I), and (J); 103 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15) (A), (B), (E), (G), (I) and (J), 1103 and 1184.

2. Section 214.2 is amended by revising paragraphs (a)(1), (b), (1), (e), (g)(1), (i), (j)(1) (ii) through (iv) and (n) (1) and (2) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

The general requirements in § 214.1 are modified for the following nonimmigrant classes:

(a) *Foreign government officials*—(1) *General.* The determination by a consular officer prior to admission and the recognition by the Secretary of State subsequent to admission is evidence of the proper classification of a nonimmigrant under section 101(a)(15)(A) of the Act. An alien who has a nonimmigrant status under section 101(a)(15)(A) (i) or (ii) of the Act is to be admitted for the duration of the period for which the alien continues to be recognized by the Secretary of State as being entitled to that status. An alien defined in section (101)(a)(15)(A)(iii) of the Act is to be admitted for an initial period of not more than three years, and may be granted extensions of temporary stay in increments of not more than two years. In addition, the application for extension of temporary stay must be accompanied by a statement signed by the employing official stating that he/she intends to continue to employ the applicant and describing the type of work the applicant will perform.

* * * * *

(b) *Visitors*—(1) *General.* Any B–1 visitor for business or B–2 visitor for pleasure may be admitted for not more than one year and may be granted an extension of a temporary stay in increments of not more than 6 months each, except that alien members of a religious denomination coming temporarily and solely to do missionary work in behalf of that denomination may be granted an extension of stay in increments of not more than one year each, provided that such work does not involve the selling of articles or the solicitation or acceptance of donations.

* * * * *

(e) *Traders and investors.* An alien defined in section 101(a)(15)(E) of the Act may be admitted for an initial period of not more than one year and may be granted extensions of temporary stay in increments of not more than two years. A trader or investor and his or her spouse or child who accompanied or followed to join the trader or investor, who acquired nonimmgrant status on or after December 24, 1952 under section 101(a)(15)(E) (i) or (ii) of the Act shall submit to the district director having jurisdiction over the aliens place of residence properly executed Forms I–539 and I–126 to apply for an extension of the period of his or her temporary admission. A trader or investor may change from one employer to another after a written request for permission to do so has been approved by the district director having jurisdiction over the alien's residence. The request must be supported by evidence that the requester would still be classifiable as a trader or investor in the new employment. After the request is granted, Service offices shall make a notation on the reverse of the alien's Form I–94 reading "Employment by (name of new employer) authorized", followed by the date of the authorization. Any unauthorized change to a new employer will constitute a failure to maintain status within the meaning of section 241(a)(9) of the Act.

* * * * *

(g) *Representatives to international organizations*—(1) *General.* The determination by a consular officer prior to admission and the recognition by the Secretary of State subsequently to admission is evidence of the proper

classification of a nonimmigrant under section 101(a)(15)(G) of the Act. An alien defined in section 101(a)(15)(G)(v) of the Act may be admitted for an initial period of not more than three years, and may be granted extensions of temporary stay in increments of not more than two years. Every other alien defined in section 101(a)(15)(G) of the Act shall be admitted for such period of time as he/she continues to be so recognized by the Secretary of State.

* * * * *

(i) *Representatives of information media.* The admission of an alien of the class defined in section 101(a)(15)(I) of the Act constitutes an agreement by the alien not to change the information medium or his or her employer until he or she obtains permission to do so from the district director having jurisdiction over his or her residence. An alien classified as an information media nonimmigrant (I) may be authorized admission for the duration of employment.

* * * * *

(j) *Exchange aliens.*

(1) * * *

(ii) *Admission.* The initial admission of an exchange alien, spouse, and children may not exceed the period specified on Form IAP–66, plus a period of 30 days for the purpose of travel. Regulations of the United States Information Agency published at 22 CFR 514.23 give general limitations on the length of stay of the various classes of exchange visitors. A spouse or child (J–2) may not be admitted for longer than the principal exchange alien (J–1).

(iii) *Readmission.* An exchange alien may be readmitted to the United States for the remainder of the time authorized on Form I–94, without presenting Form IAP–66, if the alien is returning from a visit solely to foreign contiguous territory or adjacent islands after an absence of less than 30 days and if the original Form I–94 is presented. All other exchange aliens must present a valid Form IAP–66. An original Form IAP–66 or copy three (the pink copy) of a previously issued form presented by an exchange alien returning from a temporary absence shall be retained by the exchange alien for re-entries during the balance of the alien's stay.

(iv) *Extensions of Stay.* If an exchange alien requires an extension beyond the initial admission period, the alien shall apply by submitting a new Form IAP–66 which indicates the date to which the alien's program is extended. The extension may not exceed the period specified on Form IAP–66, plus a period of 30 days for the purpose of travel. Extensions of stay for the alien's spouse and children require, as an attachment to Form IAP–66, Form I–94 for each dependent, and a list containing the names of the applicants, dates and places of birth, passport numbers, issuing countries, and expiration dates. An accompanying spouse or child may not be granted an extension of stay for longer than the principal exchange alien.

* * * * *

(n) *NATO aliens*—(1) *General.* Aliens classified as NATO–1 through NATO–4 are members of the armed forces of a country signatory to Article III of the Status of Forces Agreement (NATO). They are normally exempt from inspection under 8 CFR 235.1(c). Aliens classified as NATO–5 or –6 are civilian employees of the armed forces of a NATO member and may be authorized admission for the duration of employment and assignment with the NATO member in the United States. Aliens classified as NATO–7 who are employed by NATO–1 through NATO–4 aliens may be admitted for duration of status; if employed by NATO–5 or –6 aliens, admission may be authorized for not more than two years.

(2) *Extensions of Stay.* Any alien classified as a NATO–7 as the employee of a NATO–5 or –6 may be granted extensions of stay in increments of not more than one year.

* * * * *

Dated: October 10, 1985.

Marvin J. Gibson,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 85–24744 Filed 10–16–85; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–27]

Alteration of Control Zone and Transition Area; Lihue, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the control zone and transition area at Lihue, Hawaii. The realignment of the controlled airspace is required to contain all IFR operations at Lihue Airport, Lihue, Hawaii. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 GMT, November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536–6649.

SUPPLEMENTARY INFORMATION:

History

On July 24, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine the control zone and transition area of Lihue, Hawaii (50 FR 30206).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were published in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations enlarges the control zone at Lihue, Hawaii. The control extensions are required due to proposed changes to the Standard Instrument Approach Procedures at Lihue Airport. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions in controlled airspace.

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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zone, Transition area.

PART 71—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

1. The authoity citation of Part 71 continues to read as follows:

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

2. Section 71.171 is amended as follows:

Lihue Airport, Lihue, HI—[Revised]

"Within a 5-mile radius of Lihue Airport (lat. 21°58'46" N., long. 159°20'31" W.); beginning at lat. 21°54'30" N., long. 159°22'20" W.; thence clockwise to lat. 22°03'00" N., long. 159°22'00" W.; to lat. 22°06'30" N., long. 159°21'00" W.; to lat. 22°05'20" N., long. 159°15'30" W.; to lat. 21°57'00" N., long. 159°16'40" W.; lat. 21°50'20" N., long. 159°15'30" W.; to lat. 21°49'20" N., long. 159°22'00" W.; thence to the point of beginning."

3. Section 71.181 is amended as follows:

"That airspace extending upward from 700 feet above the surface beginning at lat. 22°03'30" N., long. 159°15'30" W.; thence clockwise via the 8-mile radius circle of the Lihue Airport (lat. 21°58'46" N., long 159°20'31" W.); to lat. 21°53'20" N., long. 159°15'50" W.; to lat. 21°57'00" N., long. 159°16'40" W.; thence to the point of beginning."

Issued in Los Angeles, California on September 24, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85–24698 Filed 10–16–85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 85-AWA-22]

Realignment of VOR Federal Airways and Jet Routes—Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: Errors were discovered in the descriptions of the Federal Airways and Jet Routes associated with the relocation and renaming of the Oklahoma City (OKC) VORTAC to the Will Rogers (IRW) VORTAC, as published in the **Federal Register** on September 18, 1985 (50 FR 37841). Additionally, that document omitted the changes in the names of both the low and high compulsory reporting points to reflect the VORTAC renaming. This action corrects those errors.

EFFECTIVE DATE: 0901 GMT, November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85–22282 was published on September 18, 1985, which realigned both the low altitude VOR Federal Airway and Jet Route structures associated with the OKC VORTAC relocation and renaming to the IRW VORTAC. Mistakes were discovered in the descriptions of the airways and jet routes through inadvertent failure to change all references to Oklahoma City to Will Rogers. To avoid confusion, the complete descriptions are presented in the text of this document. The legal descriptions of J–6, J–14, J–23, J–74, J–78 and J–98 are also added to reflect the VORTAC name change. Additionally, both the low and high compulsory reporting point names were not appropriately changed to reflect the VORTAC renaming. This action corrects those errors.

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 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 Parts 71 and 75

Aviation safety, VOR Federal airways and jet routes.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the amendatory language in **Federal Register** Document 85–22282, as published in the **Federal Register** on September 18, 1985 (50 FR 37841) is corrected to read as follows:

PART 71—[CORRECTED]

1. The authority citation for Part 71 continues to read as follows:

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

2. Section 71.123 is amended as follows:

V–14 [Amended]

By removing the words "Oklahoma City, OK; Tulsa, OK;" and substituting the words "Will Rogers, OK; INT Will Rogers 052° and Tulsa, OK, 246° radials; Tulsa;"

V–17 [Amended]

By removing the words "INT Duncan 011° and Oklahoma City, OK, 180° radials; Oklahoma City;" and substituting the words "Will Rogers, OK;"

V–77 [Amended]

By removing the words "Oklahoma City, OK, 202° radials; Oklahoma City," and substituting the words "Will Rogers, OK, 216° radials; Will Rogers;"

V–163 [Amended]

By removing the words "INT Ardmore 342° and Oklahoma City, OK, 154° radials; to Oklahoma City." and substituting the words "to Will Rogers, OK."

V–210 [Amended]

By removing the words "INT Liberal 137° and Oklahoma City, OK, 282° radials; Oklahoma City; INT Oklahoma City 109° and Okmulgee, OK, 241° radials;" and substituting the words "INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; INT Will Rogers 113° and Okmulgee, OK, 238° radials;"

V–272 [Amended]

By removing the words "Oklahoma City, OK; to McAlester, OK; Fort Smith, AR." and substituting the words "Will Rogers, OK; INT Will Rogers 113° and McAlester, OK, 236° radials; McAlester; to Fort Smith, AR."

V–354 [Amended]

By removing the words "Oklahoma City, OK, via INT Oklahoma City 045° and Pioneer, OK, 186° radials;" and substituting the words "Will Rogers, OK, via INT Will Rogers 030° and Pioneer, OK, 179° radials;"

V–358 [Amended]

By removing the words "INT Ardmore 327° and Oklahoma City, OK, 180° radials; to Oklahoma City." and substituting the words "INT Ardmore 327° and Will Rogers, OK, 195° radials; to Will Rogers."

V–436 [Revised]

From Hobart, OK, via INT Hobart 085° and Will Rogers, OK, 216° radials; Will Rogers; INT Will Rogers 068° and Tulsa, OK, 230° radials; to Tulsa.

V–440 [Amended]

By removing the words "INT Sayre 101° and Oklahoma City, OK, 242° radials; to Oklahoma City." and substituting the words

"INT Sayre 104° and Will Rogers, OK, 248° radials; to Will Rogers."

V-507 [Amended]

By removing the words "Oklahoma city, OK, via INT Oklahoma City 282° and Gage, OK, 152° radials;" and substituting the words "Will Rogers, OK, via INT Will Rogers 284° and Gage, OK, 152° radials;"

3. Section 71.203 is amended as follows:

Oklahoma City, OK [Revoked] Will Rogers, OK [New]

4. Section 71.207 is amended as follows:

Oklahoma City, OK [Revoked] Will Rogers, OK [New]

PART 75—[AMENDED]

5. The authority citation for Part 75 continues to read as follows:

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

6. Section 75.100 is amended as follows:

J-6, J-14, J-23, J-74, J-78 and J-98 [Amended]

By removing the words "Oklahoma City" and substituting the words "Will Rogers" wherever it appears in the descriptions.

J-20 [Amended]

By removing the words "INT Liberal 137° and Oklahoma City, OK, 282° radials; Oklahoma City;" and substituting the words "INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers;"

J-21 [Amended]

By removing the words "INT Dallas-Fort Worth 355° and Oklahoma City, OK, 158° radials; Oklahoma City; Wichita, KS;" and substituting the words "INT Dallas-Fort Worth 356° and Will Rogers, OK, 162° radials; Will Rogers; Pioneer, OK; Wichita, KS;"

Issued in Washington, DC, on October 8, 1985.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-24694 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3167]

Hospital Corp. of America; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Nashville, Tenn. for-profit hospital chain, among other things, to divest three of the hospitals it acquired from Forum Group, Inc. to Commission-approved acquirers within 12 months after the order becomes final. If respondent cannot divest within the time specified, the Commission will appoint a trustee to make the divestitures. Respondent is prohibited from reacquiring the assets of any of the divested hospitals for 10 years without prior Commission approval. Additionally, respondent is required to provide advance notification to the Commission before acquiring any psychiatric hospital or unit, or any general acute care hospital operating a psychiatric unit, in the Norfolk, Va., area; or any general acute care hospital in the Midland/Odessa, Tex. area; unless such acquisition price does not exceed one million dollars ($1,000,000). Further, respondent is required to file compliance reports with the Commission at specified times and make records available to Commission staff.

DATE: Complaint and Order issued Sept. 30, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/P-1038, Washington, D.C. 20580, (202) 724-1341.

SUPPLEMENTARY INFORMATION: On Monday, July 22, 1985, there was published in the **Federal Register**, 50 FR 29696, a proposed consent agreement with analysis In the Matter of Hospital Corporation of America, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: section 13.5 Acquiring corporate stock or assets; § 13.5-20 Federal Trade Commission Act.

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-24764 Filed 10-16-85; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Dkt. C-3163]

Multiple Listing Service of the Greater Michigan City Area, Inc., also d.b.a. Multiple Listing Service of LaPorte County, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires an Indiana firm providing a multiple listing service to member real estate brokers doing business in LaPorte County, Ind., among other things, to cease fixing, establishing or maintaining commission rates for brokerage services; urging its members to charge the customary market rate of commission; taking adverse action against non-conforming brokers; or otherwise engage in conduct having the tendency to restrain competition in the real estate brokerage market. The company is also barred from interfering with any statement disseminated in an advertisement that truthfully refers or relates to another broker's business practices; restricting a broker from offering or accepting an exclusive agency listing, reserve clause listing or open listing; and restraining a broker's participation or involvement in a competitive organization or service. The firm is further required to publish exclusive agency listings or reserve clause listings in its multiple listing service; timely amend their by-laws, rules and regulations, and other materials to conform to the provisions of the order; and provide area real estate brokers with a prescribed statement setting forth those terms. Additionally, the order prohibits the firm from improperly denying a membership application; requires a written notice of denial together with the reasons for the denial to be provided to rejected applicants; and requires the firm to maintain records relating to membership applications for a specified period.

DATE: Complaint and Order issued Sept. 11, 1985. [1]

FOR FURTHER INFORMATION CONTACT: FTC/P-1038, Arthur N. Lerner, Washington, D.C. 20580, (202) 724-1341.

SUPPLEMENTARY INFORMATION: On Tuesday, June 4, 1985, there was published in the **Federal Register**, 50 FR 23437, a proposed consent agreement with analysis In the Matter of Multiple Listing Service of the Greater Michigan City Area, Inc., a corporation, also trading and doing business as Multiple Listing Service of LaPorte County, Inc. for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: section 13.367 Members. Subpart—Combining or Conspiring: section 13.395 To control marketing practices and conditions; § 13.400 To discriminate or stabilize prices through basing points or delivered price systems; § 13.410 To eliminate competition in conspirators' goods; § 13.430 To enhance, maintain or unify prices; § 13.433 To fix prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain and monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: section 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records.

List of Subjects in 16 CFR Part 13

Real estate brokerage services, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-24763 Filed 10-16-85; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

16 CFR Part 13

[Dkt. C-3162]

Orange County Board of Realtors, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, that an Orange County, N.Y. Board of Realtors and its wholly-owned subsidiary, which provides a multiple listing service for its member real estate brokers, cease restricting or interfering with any broker's offering or acceptance of an exclusive agency listing or with the publishing of such listing on the multiple listing service. The companies are further required to publish exclusive agency listings in a non-discriminatory manner, and to timely amend their by-laws, rules and regulations, and other materials to conform to the provisions of the order.

DATE: Complaint and Order issued Sept. 9, 1985. [1]

FOR FURTHER INFORMATION CONTACT: FTC/P-1038, Arthur N. Lerner, Washington, D.C. 20580, (202) 724-1341.

SUPPLEMENTARY INFORMATION: On Tuesday, June 4, 1985, there was published in the **Federal Register**, 50 FR 23440, a proposed consent agreement with analysis In the Matter of Orange County Board of Realtors, Inc., a corporation, and Multiple Listing Service of the Orange County Board of Realtors, Inc., a corporation for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.388 To control allocation and solicitation of customers; § 13.405 To discriminate unfairly or restrictively in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records.

List of Subjects in 16 CFR Part 13

Real estate brokerage services, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-24762 Filed 10-16-85; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 82N-0393]

Gras Status of Sodium Metasilicate and Sodium Zinc Metasilicate

Correction

In FR Doc. 85-22837, beginning on page 38779 in the issue of Wednesday, September 25, 1985, make the following corrections:

1. On page 38780, third column, second complete paragraph, next to the last line, "purty" should have read "purity".

2. On page 38781, first column, in § 184.1769a (c), first line, "§ 181.1(b)(1)" should have read "§ 184.1(b)(1)".

BILLING CODE 1505-01-M

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor

Correction

In FR Doc. 85-22838, appearing on page 38782 in the issue of Wednesday, September 25, 1985, in the second column, in § 510.600, below the line reading "(c) * * *" should have appeared a line reading "(1) * * *".

BILLING CODE 1505-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin Combinations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. The supplement provides for the use of monensin in combination with bacitracin zinc, bacitracin methylene disalicylate, bambermycins, oxytetracycline, or lincomycin in broiler chickens with no withdrawal period. The supplement also provides for the use of monensin in combination with chlortetracycline for broiler chickens with a 24-hour withdrawal period.

EFFECTIVE DATE: October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Adriano Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: FDA published approval of a supplement filed by Elanco Products Co., A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, to its NADA 38-878 for monensin on August 12, 1985 (50 FR 32394). The supplement provided for use of monensin in broiler and replacement chickens without a withdrawal period. The sponsor filed a subsequent NADA requesting that the approval be extended to certain combination poultry feeds. FDA has further reviewed the original supplement and concludes that monensin may be used in combination with bacitracin zinc, bacitracin methylene disalicylate, bambermycins, oxytetracycline, or lincomycin for broiler chickens with no withdrawal period; and monensin may be used in combination with chlortetracycline for broiler chickens with a 24-hour withdrawal period. The supplemental application is approved and the regulations are amended accordingly. The basis for approval is the same as that discussed in the freedom of information summary made available when the supplement that removed the withdrawal period for monensin alone was approved.

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 both this and the supplemental application approved August 12, 1985, 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) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraph (e)(1)(vi)(*b*) by removing the phrase "withdraw 72 hours before slaughter;".

§ 558.355 [Amended]

3. Section 558.355 *Monensin* is amended in paragraph (f)(1) (iii)(*b*), (iv)(*b*), (v)(*b*), and (ix)(*b*) by removing the phrase "withdraw 72 hours before slaughter;" and inserting in its place "in the absence of coccidiosis, the use of monensin with no withdrawal period may limit feed intake resulting in reduced weight gain;", in paragraph (f)(1)(viii)(*b*) by removing the phrase "Withdraw 72 hours before slaughter;" and inserting in its place "In the absence of coccidiosis, the use of monensin with no withdrawal period may limit feed intake resulting in reduced weight gain;", and in paragraph (f)(1)(xiv)(*b*) by removing the phrase "withdraw 72 hours before slaughter;" and inserting in its place "withdraw 24 hours before slaughter; in the absence of coccidiosis, the use of monensin with no withdrawal period may limit feed intake resulting in reduced weight gain".

§ 558.450 [Amended]

4. Section 558.450 *Oxytetracycline* is amended in paragraph (e)(1)(iv) in Table 1 by removing in the "Limitations" column the phrase "Withdraw 72 hours before slaughter;".

Dated: October 10, 1985.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 85-24707 Filed 10-16-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8058]

Income Taxes; Mixed Straddle Account Elections Under Section 1092(b)(2)

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document amends temporary regulations relating to the election to establish mixed straddle accounts. Changes in the applicable tax law were made by the Tax Reform Act of 1984. These regulations provide Internal Revenue Service personnel who administer the Internal Revenue Code and members of the public with the guidance necessary to make the election and comply with the law.

EFFECTIVE DATE: The regulations apply to positions held on or after January 1, 1984, and are effective October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Timothy J. McKenna of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T). Telephone 202-566-4336 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Temporary Income Tax Regulations (26 CFR Part 1) under section 1092(b) of the Internal Revenue Code of 1954 which were published in the **Federal Register** on January 24, 1985 (50 FR 3324). A notice of proposed rulemaking cross-referencing these temporary regulations also was published in the same issue of the **Federal Register** (50 FR 3351). These amendments conform the regulations to section 103 of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 627). The temporary regulations provided by this document will remain in effect until suspended by final regulations on this subject.

Summary of Changes in Temporary Regulation

This document amends § 1.1092 (b)-4T (f), relating to the time for making a mixed straddle account election. Under the prior rules, a mixed straddle account election was effective for the year for which it was made and for all subsequent taxable years. The

regulation also provided that the election could be revoked only with the consent of the Commissioner. The election was to be made by the due date (taking extensions into account) of the taxpayer's income tax return for the taxable year for which the mixed straddle account was established. The revised temporary regulations provide in § 1.1092(b)–4T (f)(4) that an election will be effective only for the taxable year for which it is made. Section 1.1092(b)–4T (f)(1) of the revised temporary regulations provides that the election to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to extensions) of the taxpayer's income tax return for the immediately preceding taxable year. Section 1.1092(b)–4T (f)(2) of the revised temporary regulations prescribes that the election is to be made on Form 6781 and by attaching the Form and a statement designating with specificity the class of activities for which a mixed straddle account is established to the taxpayer's income tax return for the immediately preceding taxable year (or request for an automatic extension). Section 1.1092(b)–4T (f)(3) of the revised temporary regulations sets forth transitional rules for calendar and fiscal year taxpayers. Under the revised regulations, calendar year taxpayers must make mixed straddle account elections for taxable years 1984 and 1985 by December 31, 1985. With respect to fiscal year taxpayers, the revised regulations provide that the deadline for making mixed straddle account elections for fiscal years ending before September 1, 1986 (or, in the case of a corporation, October 1, 1986), will not be earlier than December 31, 1985. The December 31, 1985 date for making the election represents an extension of time to make the election from the October 15, 1985 date set forth in IR–85–78, issued on August 8, 1985, and Announcement 85–112, published in I.R.B. 1985–33, dated August 19, 1985.

The news release also informed certain individuals, trusts, estates, and partnerships holding mixed straddles that they would be allowed an extension of time until October 15, 1985, to file their income tax returns. New temporary regulation § 1.6081–1T is being added to reflect this extension. However, no extension of the October 15, 1985 date for filing these returns is provided in these regulations.

Special Analyses

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply, and no regulatory flexibility analysis is required for this rule. The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Drafting Information

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

List of Subjects

26 CFR 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges, Straddles.

26 CFR 1.6001–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805. * * * Section 1.1092(b)–4T also issued under 26 U.S.C. 1092(b)(2).

Par. 2. Paragraph (f) of § 1.1092(b)–4T is revised to read as follows:

§ 1.1092(b)–4T Mixed straddles; mixed straddle account (temporary).

* * * * *

(f) *Election*—(1) *Time for making the election.* Except as otherwise provided, the election under this section to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to automatic and discretionary extensions) of the taxpayer's income tax return for the immediately preceding taxable year (or part thereof). For example, an individual taxpayer on a calendar year basis must make the election by April 15, 1986, to establish one or more mixed straddle accounts for taxable year 1986. Similarly, a calendar year corporate taxpayer must make its election by March 15, 1986, to establish one or more mixed straddle accounts for 1986. If a taxpayer begins trading or investing in positions in a new class of activities during a taxable year, the election under this section with respect to the new class of activities must be made by the taxpayer by the later of the due date of the taxpayer's income tax return for the immediately preceding taxable year (without regard to automatic and discretionary extensions), or 60 days after the first mixed straddle in the new class of activities is entered into. Similarly, if on or after the date the election is made with respect to an account, the taxpayer begins trading or investing in positions that are includible in such account but were not specified in the original election, the taxpayer must make an amended election as prescribed in paragraph (f)(2)(ii) of this section by the later of the due date of the taxpayer's income tax return for the immediately preceding taxable year (without regard to automatic and discretionary extensions), or 60 days after the acquisition of the first of the positions. If an election is made after the times specified in this paragraph (f)(1), the election will be permitted only if the Commissioner concludes that the taxpayer had reasonable cause for failing to make a timely election. For example, if a calendar year taxpayer holds few positions in one class of activities prior to April 15 of a taxable year, and the taxpayer greatly increases trading activity with respect to positions in the class of activities after April 15, then the Commissioner may conclude that the taxpayer had reasonable cause for failing to make a timely election and allow the taxpayer to make a mixed straddle account election for the taxable year. See paragraph (f)(2) of this section for rules relating to the manner for making these elections.

(2) *Manner for making the election*—(i) *In general.* A taxpayer must make the election on Form 6781 in the manner prescribed by such Form, and by attaching the Form to the taxpayer's income tax return for the immediately preceding taxable year (or request for an automatic extension). In addition, the taxpayer must attach a statement to Form 6781 designating with specificity the class of activities for which a mixed straddle account is established. The designation must describe the class of activities in sufficient detail so that the Commissioner may determine, on the basis of the designation, whether specific positions are includible in the mixed straddle account. In the case of a taxpayer who elects to establish more than one mixed straddle account, the Commissioner must be able to determine, on the basis of the designations, that specific positions are placed in the appropriate account. The

election applies to all positions in the designated class of activities held by the taxpayer during the taxable year.

(ii) *Elections for new classes of activities and expanded elections.* Amended elections and elections made with respect to a new class of activities that the taxpayer has begun trading or investing in during a taxable year, shall be made on Form 6781 within the times prescribed in paragraph (f)(1) of this section. A statement must be attached to the Form containing the information required in paragraph (f)(2)(i) of this section, with respect to the new or expanded designated class of activities.

(iii) *Special Rule.* The Commissioner may disregard a mixed straddle account election if the Commissioner determines, on the basis of all the facts and circumstances, that the principal purpose for making the mixed straddle account election with respect to a class of activities was to avoid the rules of § 1.1092(b)–1T (a). For example, if a taxpayer holds stock that is not part of a straddle and that would generate a loss if sold or otherwise disposed of, and the taxpayer both acquires offsetting option positions with respect to the stock and makes a mixed straddle account election with respect to the stock and stock options near the end of a taxable year, the Commissioner may disregard the mixed straddle account election.

(3) *Special rule for taxable years ending after 1983 and before September 1, 1986.* An election under this section to establish one or more mixed straddle accounts for any taxable year that includes July 17, 1984, and any taxable year that ends before September 1, 1986 (or, in the case of a corporation, October 1, 1986), must be made by the later of—

(i) December 31, 1985, or

(ii) The due date (without regard to automatic and discretionary extensions) of the return for the taxpayer's taxable year that begins in 1984 if the due date of the taxpayer's return for such year (without regard to automatic and discretionary extensions) is after December 31, 1985.

The election shall be made by attaching Form 6781 together with a statement to the taxpayer's income tax return, amended return, or other appropriate form that is filed on or before the deadline determined in the preceding sentence. The attached statement must designate with specificity, in accordance with paragraph (f)(2)(i) of this section, the class of activities for which a mixed straddle account is established. For example, if a fiscal year taxpayer's return (for its taxable year ending September 30, 1985) is due (without regard to extensions) on January 15, 1986, and the taxpayer intends to obtain an automatic extension to file the return, the election under this section for any or all of the fiscal years ending in 1984, 1985 or 1986 must be made on or before January 15, 1986, with the request for an automatic extension. Similarly, a calendar year taxpayer (whether or not such taxpayer has obtained an automatic extension of time to file) who has filed its 1984 income tax return before October 15, 1985, without making a mixed straddle account election for either 1984 or 1985, or both, may make the mixed straddle account election under this section for either or for both of such years with an amended return filed on or before December 31, 1985. The mixed straddle account elected on this amended return will be effective for all positions in the designated class of activities even if the taxpayer had elected straddle-by-straddle identification as provided under § 1.1092(b)–3T for purposes of the previously filed 1984 income tax return. For taxable years beginning in 1984 and 1985, the election under this paragraph (f)(3) is effective for the entire taxable year. For taxable years beginning in 1983, an election shall be effective for that part of the year beginning after December 31, 1983, for which the election under §§ 1.1256(h)–1T or 1.1256(h)–2T is made. See § 1.6081–1T regarding an extension of time to file certain individual income tax returns.

(4) *Period for which election is effective.* For taxable years beginning on or after January 1, 1984, an election under this section, including an amendment to the election pursuant to paragraph (f)(1) of this section, shall be effective only for the taxable year for which the election is made. This election may be revoked during the taxable year for the remainder of the taxable year only with the consent of the Commissioner. An application for consent to revoke the election shall be filed with the service center with which the election was filed and shall—

(i) Contain the name, address, and taxpayer identification number of the taxpayer;

(ii) Show that the volume or nature of the taxpayer's activities has changed substantially since the election was made, and that the taxpayer's activities no longer warrant the use of such mixed straddle account; and

(iii) Any other relevant information.

If a taxpayer's election for a taxable year is revoked, the taxpayer may not make a new election for the same class of activities under paragraph (f)(1) of this section during the same taxable year.

Par 3. A new § 1.6081–1T is added immediately after § 1.6081–1 to read as set forth below.

§ 1.6081–1T Extension of time to file return in case of taxpayers with mixed straddles (temporary).

The due date for the income tax return of trusts, estates, partnerships, and individual taxpayers filing their return for calendar year 1984 or for a fiscal year ending before February 1, 1985, shall be October 15, 1985, if—

(a) The taxpayer obtained an extension of time to file the return pursuant to § 1.6081–1 or § 1.6081–4, and the due date for the return (taking the extension into account) falls after August 7, 1985 and before October 16, 1985;

(b) The taxpayer did not file the return prior to August 8, 1985; and

(c) The taxpayer held one or more mixed straddles (within the meaning of section 1092(b)(2)) at any time after December 31, 1983, and before August 8, 1985.

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

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 10, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–24693 Filed 10–11–85; 10:07 am]

BILLING CODE 4830–01–M

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31 CFR Part 10

Regulations Governing the Discipline of Appraisers Against Whom Aiding and Abetting Penalties Under the Internal Revenue Code have been Assessed

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document contains the final regulations implementing section 156 of the Deficit Reduction Act of 1984, 98 Stat. 695. Such legislation provides for the disqualification appraisals and appraisers' testimony in connection with Treasury Department or Internal Revenue Service proceedings with respect to any appraiser who has been assessed an aiding and abetting penalty under 26 U.S.C. 6701(a) after July 18, 1984.

DATE: These regulations are effective October 17, 1985. These regulations apply to any appraiser who has been assessed an aiding and abetting penalty under 26 U.S.C. 6701(a) after July 18, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Internal Revenue Service, Washington, D.C. 20224, (202) 535-6787.

SUPPLEMENTARY INFORMATION: On February 20, 1985, a notice of proposed rulemaking was published in the **Federal Register** (50 FR 7075) to amend the regulations in 31 CFR Part 10 by implementing section 156 of the Deficit Reduction Act of 1984, 58 Stat. 695. The notice proposed regulations providing for the disqualification of appraiser testimony and appraisals by an appraiser who has been assessed a penalty under 26 U.S.C. 6701(a) for aiding and abetting the understatement of tax. A 90-day period for comments was accorded the public. Five comments were received. They will be addressed below:

1. The commenter believes that there should be some sort of regulatory measures to standardize appraisal procedures. However, the commenter does not feel "such procedures" could be carried out effectively. (This reference presumedly is in reference to the regulation of appraisal services by the government.) Rather, a self-policing arrangement (within the profession) should be employed because of the many variables involved in appraising.

The comment deals with the regulation of appraisal services. We concur in the observation that appraisers may benefit from mechanisms established within the profession to assure professionally responsible appraisal services. However, the subject of the comment is outside the scope of section 156 of the Deficit Reduction Act of 1984. Therefore, it is not addressed in the proposed regulations and is not an appropriate subject for the final rule. This factor does not adversely affect any consideration being given the adoption of mechanisms within the profession to standardize appraisal procedures of those which may be forthcoming.

2. The comment supports the procedures set forth in the proposal. However, concern is expressed with respect to the need to establish standards applicable to real estate appraisals that could be used for guidance in Internal Revenue Service evaluations of real estate appraisals. The comment expresses the belief that a joint effort by the Internal Revenue Service and appraiser societies could develop standards that would be mutually useful.

The concept of establishing professional standards to the extent feasible is one which appears meritorious. However, it is one not directly related to the proposed regulations or to their statutory basis. Any implementation of the recommendation is a matter that should be addressed in a forum other than this rulemaking procedure.

3. The commenter expresses concern relative to a perceived inconsistency in the proposed regulations. The proposal provides that the appraisals of a person who has been disqualified will be preserved with respect to those (appraisals) provided before the date of disqualification. However, a similar provision is not made for the testimony of an appraiser regarding appraisals issued before the date of disqualification. The commenter believes such omission will work to the detriment of the taxpayers.

While the concern expressed in the comment is recognized, we do not concur in its theory. To permit an appraiser who is disqualified to continue appraisal service either in issuing appraisals or in providing testimony in connection with Treasury Department matters would be at variance with the statutory basis of the regulations and with the integrity of the discipline program. We believe it in fact is one of the very things the statute and regulations are designed to prohibit. An appraiser who is found to have engaged in conduct which has warranted the assessment of an aiding and abetting penalty has the potential of adversely affecting taxpayers' responsibilities relative to our tax system, a potential the proposed regulations wishes to prevent.

However, we recognize that taxpayers may have placed good faith reliance on appraisals the disqualified appraiser issued prior to his/her disqualification. Consequently, the proposed regulations preserve the ability of taxpayers to present those appraisals for the purpose of demonstrating such good faith reliance. To enable a disqualified appraiser to provide testimony regarding such appraisals would not be directly related to the issue of good faith reliance.

4. The comment states, in effect, that section 156 of the Deficit Reduction Act of 1984 does not reflect its legislative history.

In this connection, it refers to the absence of clear guidelines as to (1) the definition of a "qualified appraiser" and (2) authority to disqualify appraisers who have engaged in misconduct in areas other than aiding and abetting the understatement of tax. The comment points out the dichotomy between these factors and the authorization given the Treasury Department with respect to others who perform professional services in connection with the Internal Revenue Service.

The comment appears to be directed at the limited nature of the legislation itself rather than at the proposed regulations. We find nothing in the comment indicating the proposal does not reflect the language of the statute or that the proposal contains provisions which should be modified in the final rule. Consequently, the comment does not affect this rulemaking procedure.

5. The comment expresses full support of the intent and purpose of the proposal. In order to eliminate any problems that cause violations of the regulations, it is suggested that an appraiser be a member in good standing of a national appraiser organization, be licensed by the government and that the appraisal fee for items to be used for a tax deduction not be based on a percentage of the appraised value. In addition, the commenter believes the appraiser who is subject to regulations by the Internal Revenue Service should be governed in the same manner as those who appear before the Internal Revenue Service, e.g. attorneys. Further, appraisers should be required to provide statements with their appraisals setting forth the bases for the appraisals.

The comment makes suggestions which are in the interests of the professional status of appraisers and the enhancement of the quality of appraisal services relative to Internal Revenue Service matters. However, the suggestions are outside the purview of the statutory amendment precipitating the proposed regulations and cannot be considered for inclusion in the final rule.

Because the proposed regulations are not affected by the comments received, the proposal as it appeared in the **Federal Register** is adopted by this Final Rule.

Special Analyses

This rule relates solely to professional services in connection with Internal Revenue Service and Treasury Department proceedings and is not expected to have any significant economic consequences.

Therefore, it has been determined that this rule is not a major rule as defined in Executive Order 12291 and a regulatory impact analysis is not required. It is hereby certified that this rule is not expected to have a significant economic impact on a substantial number of small

entities. Accordingly, a regulatory flexibility analysis is not required.

Drafting Information

The principal author of these regulations is Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury. Other present and former personnel in the Treasury Department participated in the development of the regulations, both as to substance and style.

List of Subjects in 31 CFR Part 10

Administrative rules and procedures, Lawyers, Accountants, Enrolled agents, Enrolled actuaries and appraisers.

Adoption of Amendments to the Regulations

Accordingly, 31 CFR Part 10 is amended by adopting, without change, the regulations proposed as a notice of proposed rulemaking in the **Federal Register** on February 20, 1985 (50 FR 7075) as follows:

Amendments to Regulations

PART 10—[AMENDED]

Accordingly, 31 CFR Part 10 is amended as follows:

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

AUTHORITY: Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 330; 31 U.S.C. 321 (Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280 3 CFR 1949–53 Comp., p. 1017).

2. Subpart D, consisting of § 10.90 through § 10.93, is redesignated as Subpart E, consisting of § 10.98 through § 10.101.

3. A new Subpart D is added, to read as follows:

Subpart D—Rules Applicable to Disqualification of Appraisers

Sec.

Subpart D—Rules Applicable to Disqualification of Appraisers

§ 10.77 Authority to disqualify; effect of disqualification.

(a) *Authority to disqualify.* Pursuant to section 156 of the Deficit Reduction Act of 1984, 98 Stat. 695, amending 31 U.S.C. 330, the Secretary of the Treasury, after due notice and opportunity for hearing may disqualify any appraiser with respect to whom a penalty has been assessed after July 18, 1984, under section 6701(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6701(a)).

(b) *Effect of disqualification.* If any appraiser is disqualified pursuant to 31 U.S.C. 330 and this Subpart:

(1) Appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service; and

(2) Such appraiser shall be barred from presenting evidence or testimony in any such administrative proceeding. Paragraph (b)(1) shall apply to appraisals made by such appraiser after the effective date of disqualification, but shall not apply to appraisals made by the appraiser on or before such date. Notwithstanding the foregoing sentence, an appraisal otherwise barred from admission into evidence pursuant to paragraph (b)(1) may be admitted into evidence solely for the purpose of determining the taxpayer's reliance in good faith on such appraisal. Paragraph (b)(2) shall apply to the presentation of testimony or evidence in any administrative proceeding after the date of such disqualification, regardless of whether such testimony or evidence would pertain to an appraisal made prior to such date.

§ 10.78 Institution of proceeding.

(a) *In general.* Whenever the Director of Practice is advised or becomes aware that a penalty has been assessed against an appraiser under 26 U.S.C. 6701(a), he/she may reprimand such person or institute a proceeding for disqualification of such appraiser through the filing of a complaint. Irrespective of whether a proceeding for disqualification has been instituted against an appraiser, the Director of Practice may confer with an appraiser against whom such a penalty has been assessed concerning such penalty.

(b) *Voluntary disqualification.* In order to avoid the initiation or conclusion of a disqualification proceeding, an appraiser may offer his/her consent to disqualification. The Director of Practice, in his/her discretion, may disqualify an appraiser in accordance with the consent offered.

§ 10.79 Contents of complaint.

(a) *Charges.* A proceeding for disqualification of an appraiser shall be instituted through the filing of a complaint, which shall give a plain and concise description of the allegations that constitute the basis for the proceeding. A complaint shall be deemed sufficient if it refers to the penalty previously imposed on the respondent under section 6701(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6701(a)), and advises him/her of the institution of the proceeding.

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given of the place and time within which the respondent shall file his/her answer, which time shall not be less than 15 days from the date of service of the complaint, and notice shall be given that a decision by default may be rendered against the respondent in the event there is failure to file an answer.

§ 10.80 Service of complaint and other papers.

(a) *Complaint.* The complaint or a copy thereof may be served upon the respondent by certified mail, or first-class mail as hereinafter provided, by delivering it to the respondent or his/her attorney or agent of record either in person or by leaving it at the office or place of business of the respondent, attorney or agent, or in any other manner that has been agreed to by the respondent. Where the service is by certified mail, the return post office receipt duly signed by or on behalf of the respondent shall be proof of service. If the certified mail is not claimed or accepted by the respondent and is returned undelivered, complete service may be made by mailing the complaint to the respondent by first-class mail, addressed to the respondent at the last address known to the Director of Practice. If service is made upon the respondent in person or by leaving the complaint at the office or place of business of the respondent, the verified return by the person making service, setting forth the manner of service, shall be proof of such service.

(b) *Service of papers other than complaint.* Any paper other than the complaint may be served as provided in paragraph (a) of this section or by mailing the paper by first-class mail to

the respondent at the last address known to the Director of Practice, or by mailing the paper by first-class mail to the respondent's attorney or agent of record. Such mailing shall constitute complete service. Notices may be served upon the respondent or his/her attorney or agent of record by telegraph.

(c) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a disqualification proceeding under this Subpart or by rule or order of the Administrative Law Judge, the paper shall be filed with the Director of Practice, Treasury Department, Internal Revenue Service, Washington, D.C. 29224. All papers shall be filed in duplicate.

§ 10.81 Answer.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director of Practice or the Administrative Law Judge. The answer shall be filed in duplicate with the Director of Practice.

(b) *Contents.* The answer shall contain a statement of facts that constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint that he/she knows to be true, or state that he/she is without sufficient information to form a belief when in fact he/she possesses such information.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director of Practice or the Administrative Law Judge, shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make his/her decision by default without a hearing or further procedure.

§ 10.82 Supplemental charges.

If it appears that the respondent in his/her answer, falsely and in bad faith, denies a material allegation of fact in the complaint or states that the respondent has no knowledge sufficient to form a belief, when he/she in fact possesses such information, or if it appears that the respondent has knowingly introduced false testimony during proceedings for his/her disqualification, the Director of Practice may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare a defense thereto.

§ 10.83 Reply to answer.

No reply to the respondent's answer shall be required, and any new matter in the answer shall be deemed to be denied, but the Director of Practice may file a reply in his/her discretion or at the request of the Administrative Law Judge.

§ 10.84 Proof, variance, amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the Administrative Law Judge may order or authorize amendment of the pleading to conform to the evidence; provided, that the party who would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegations of the pleading as amended, and the Administrative Law Judge shall make findings on any issue presented by the pleadings as so amended.

§ 10.85 Motions and requests.

Motions and requests may be filed with the Director of Practice or with the Administrative Law Judge.

§ 10.86 Representation.

A respondent may appear in person or may be represented by counsel or other representative. The Director of Practice may be represented by an attorney or other employee of the Department of the Treasury.

§ 10.87 Administrative Law Judge.

(a) *Appointment.* An Administrative Law Judge appointed as provided by 5 U.S.C. 3105, shall conduct proceedings upon complaints for the disqualification of appraisers.

(b) *Powers of Administrative Law Judge.* Among other powers, the Administrative Law Judge shall have authority, in connection with any disqualification proceeding assigned or referred to him/her, to do the following:

(1) Administer oaths and affirmations;

(2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except at the discretion of the Administrative Law Judge, in extraordinary circumstances;

(3) Determine the time and place of hearing and regulate its course and conduct;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written argument on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(10) Make initial decisions.

§ 10.88 Hearings.

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the disqualification of an appraiser. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to 5 U.S.C. 556.

(b) *Failure to appear.* If either party to the proceeding fails to appear at the hearing after due notice thereof has been sent to him/her, the right to a hearing shall be deemed to have been waived and the Administrative Law Judge may make a decision by default against the absent party.

§ 10.89 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on complaints for the disqualification of appraisers. However, the Administrative Law Judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(b) *Depositions.* The deposition of any witness taken pursuant to 10.90 may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service or the Department of the Treasury shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service or the Department of the Treasury, as the case may be.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Administrative Law Judge may authorize the withdrawal of the exhibit subject to any conditions which he/she deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Administrative Law Judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

§ 10.90 Depositions.

Depositions for use at a hearing may, with the written approval of the Administrative Law Judge, be taken either by the Director of Practice or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 10 days' written notice to the other party before any officer duly authorized to administer an oath for general purposes or before an officer or employee of the Internal Revenue Service who is authorized to administer an oath in internal revenue matters. Such notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file it with the Administrative Law Judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 10.91 Transcript.

In cases where the hearing is stenographically reported by a Government contract reporter, copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where a hearing is stenographically reported by a regular employee of the Internal Revenue Service, a copy thereof will be supplied to the respondent either without charge or upon the payment of a reasonable fee. Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (Sec. 501, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a)).

§ 10.92 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the Administrative Law Judge, prior to making a decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

§ 10.93 Decision of the Administrative Law Judge.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the Administrative Law Judge shall make the initial decision in the case. The decision shall include (a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of disqualification or an order of dismissal of the complaint. The Administrative Law Judge shall file the decision with the Director of Practice and shall transmit a copy thereof to the respondent or his attorney of record. In the absence of an appeal to the Secretary of the Treasury, or review of the decision upon motion of the Secretary, the decision of the Administrative Law Judge shall without further proceedings become the decision of the Secretary of the Treasury 30 days from the date of the Administrative Law Judge's decision.

§ 10.94 Appeal to the Secretary.

Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal such decision to the Secretary of the Treasury. If an appeal is by the respondent, the appeal shall be filed with the Director of Practice in duplicate and shall include exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions. If an appeal is filed by the Director of Practice, a copy thereof shall be transmitted to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director of Practice. If the reply brief is filed by the Director, a copy shall be transmitted to the respondent. Upon the filing of an appeal and a reply brief, if any, the Director of Practice shall transmit the entire record to the Secretary of the Treasury.

§ 10.95 Decision of the Secretary.

On appeal from or review of the initial decision of the Administrative Law Judge, the Secretary of the Treasury shall make the agency decision. In making such decision, the Secretary of the Treasury will review the record or such portions thereof as may be cited by the parties. A copy of the Secretary's decision shall be transmitted to the respondent by the Director of Practice.

§ 10.96 Final Order.

Upon the issuance of a final order disqualifying an appraiser, the Director of Practice shall give notice thereof to appropriate officers and employees of the Internal Revenue Service and to interested departments and agencies of the Federal Government.

§ 10.97 Petition for reinstatement.

The Director of Practice may entertain a petition for reinstatement from any disqualified appraiser after the expiration of 5 years following such disqualification. Reinstatement may not be granted unless the Director of Practice is satisfied that the petitioner, thereafter, is not likely to conduct himself/herself contrary to 26 U.S.C. 6701(a), and that granting such reinstatement would not be contrary to the public interest.

4. The newly designated § 10.98 is amended by revising paragraph (a) to read as follows:

§ 10.98 Records.

(a) *Availability.* There are made available to public inspection at the Office of Director of Practice the roster of all persons enrolled to practice, the roster of all persons disbarred or suspended from practice, and the roster of all disqualified appraisers. Other records may be disclosed upon specific request, in accordance with the disclosure regulations of the Internal Revenue Service and the Treasury Department.

* * * * *

5. The newly designated § 10.99 is revised to read as follows:

§ 10.99 Effective date of regulations.

The regulations of this Part are effective on October 17, 1985 and shall

supersede all prior regulations related to this part.

6. The newly designated § 10.100 is revised to read as follows:

§ 10.100 Saving clause.

Any proceeding for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent, instituted but not closed prior to the effective date of these revised regulations, shall not be affected by such regulations. Any proceeding under this Part based on conduct engaged in prior to the effective date of these regulations may be instituted subsequent to such effective date.

Dated: September 23, 1985.

Robert M. Kimmitt,

General Counsel.

[FR Doc. 85-24618 Filed 10-16-85; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 150

[PP 5F3180/R797; PH-FRL 2912-4]

Pesticide Tolerance for Cyromazine (TRIGARD®) In or on Lettuce and Celery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a pesticide tolerance to permit residues of the insect growth regulator cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) (TRIGARD®) and its metabolite malamine (1,3,5-triazine-2,4,6-triamine) in or on the raw agricultural commodities head lettuce and celery. This regulation establishing the maximum permissible level for residues of the insecticide cyromazine and its metabolite melamine in or on these commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: October 4, 1985.

ADDRESS: Written objections, identified by the document control number (PP 5F3180/R797), may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M. St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Timothy A. Gardner, Product Manager (PM) 17, Registration Division (TS-767), Environmental Protection Agency, 401 M. St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2690.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 30, 1985 (50 FR 4265), which announced that Ciba Geigy Corp., 410 Swing Rd., P.O. Box 18300, Greensboro, NC 27419, had submitted pesticide petition (PP) 5F3180, proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of the insecticide cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its metabolite melamine (1,3,5-triazine-2,4,6-triamine) in or on the raw agricultural commodities head lettuce at 5.0 parts per million (ppm) and 10.0 ppm for celery.

The scientific data submitted in the petition and other relevant material have been evaluated. A discussion of the toxicological data considered in support of these tolerances as well as a discussion of the risk of cyromazine and its metabolite melamine can be found in a rule (FAP 2H5355/P344) published in the **Federal Register** of April 27, 1984 (49 FR 18120). A related document (FAP 2H5355/753) establishing a regulation permitting residues of the insecticide in or on poultry feed was published in the **Federal Register** of May 15, 1985 (50 FR 20370).

The petitioner amended the original petition limiting the use of the insecticide to applications on head lettuce only and celery rather than celery and all types of lettuce.

Tolerances for cyromazine and its metabolite melamine have been established as follows: eggs (0.25 ppm), poultry meat from chicken layer hens only (0.05 ppm), poultry fat from chicken layer hens only (0.05 ppm), and poultry meat by-products from chicken layer hens only (0.05 ppm). Based on a 6-month feeding study in dogs and a 100-fold safety factor, the acceptable daily intake (ADI) has been calculated to be 0.0075 mg/kg/day with a maximum permissible intake (MPI) of 0.45 mg/day for a 60-kg person. By granting these tolerances, the theoretical maximum residue contribution increases from 0.0126 mg/day to 0.1536 mg/day. The percentage of the ADI used will increase from 2.80 percent to 34.14 percent.

There are no regulatory actions pending against the registration of cyromazine. The metabolism of cyromazine in plants and animals is adequately understood for purposes of the tolerances being established. An analytical method, identified as AG-408, using high-performance liquid chromatography and a U.V. detector, is available to determine residues of cyromazine and its metabolite melamine for enforcement purposes.

Since neither celery nor head lettuce is a livestock feed item, there is little expectation of secondary residues of cyromazine/melamine occurring in meat, milk, poultry, and eggs from these uses.

The pesticide is considered useful for the purpose for which tolerances are sought, and it has been concluded that the tolerances for residues of the insecticide and its metabolite in or on head lettuce and celery will protect the public health. Therefore, these tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this rule in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB Review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), 94 Stat. 1164, 5 U.S.C. 501-612), the Administrator has determined that regulations establishing new tolerances or raising requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 4, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.414(d) is added, to read as follows:

§ 180.414 Cyromazine; tolerances for residues.

* * * * *

(d) Tolerances are established for the combined residues of the insecticide cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its metabolite melamine (1,3,5,-triazine-2,4,6-triamine) calculated as cyromazine in or on the following raw agricultural commodities.

Commodities	Parts per million
Celery	10.0
Lettuce, head	5.0

[FR Doc. 85-24757 Filed 10-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 153

[OPP-60010; PH FRL-2799-4]

Reporting Requirements for Risk/Benefit Information

Correction

In FR Doc. 85-22658 beginning on page 38115 in the issue of Friday, September 20, 1985, make the following correction: on page 38121, in the third column, in § 153.62(a), in the second line, "and 162" should read "and in Part 162".

BILLING CODE 1505-01-M

40 CFR Part 180

[PP 5F3228/R795; PH-FRL 2912-3]

Pesticide Tolerances for Bromoxynil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide bromoxynil resulting from the application of the heptanoic acid ester of bromoxynil in or on certain raw agricultural commodities. This regulation, to establish maximum permissible levels of residues of the herbicide in or on the commodities, was requested in a petition by Rhone-Poulenc, Inc.

EFFECTIVE DATE: October 17, 1985.

ADDRESS: Written objections, identified by the document control number [PP 5F3228/R795], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 21, 1985 (50 FR 33839), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, has filed pesticide petition (PP) 5F3228 with EPA. The petition proposed amending 40 CFR 180.324 by establishing tolerances for residues of the herbicide bromoxynil in or on barley (grain, green forage, and straw); cattle (meat, fat, meat byproducts); corn (dry fodder, green forage, grain); flaxseed and straw; garlic; goats (meat, fat, meat byproducts); canary grass (annual seed and straw); hogs (meat, fat, meat byproducts); horses (meat, fat, meat byproducts); mint hay; oats (grain, green forage, straw); rye (grain, green forage and straw); sheep (meat, fat, meat by-products); sorghum (grain, forage and fodder); and wheat (grain, green forage, and straw) at 0.1 part per million (ppm).

In the notice of filing, the reference to the "application of the heptanoic acid ester of bromoxynil" as part of the tolerance expression and the commodity "onions (dry bulb) at 0.1 ppm" in the list of commodities were inadvertently omitted. The final rule is issued to include the heptanoic acid ester of bromoxynil in the tolerance expression and onions (dry bulb) in the list of commodities.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated for bromoxynil heptanoic acid ester include an acute oral study (rat) with a lethal dose (LD_{50}) equal to 240 milligrams (mg)/kilograms (kg) (males), 210 mg/kg (females); an acute dermal toxicity study (rabbits) with an $LD_{50} > 2{,}000$ mg/kg of body weight ≧ an acute inhalation toxicity study (rat) with an LC_{50} of 1.77 mg/liter (males) and 1.14 mg/liter (females); an eye irritation study (rabbits) with the mean primary irritation score (PIS) = 33.8/110 at 72 hours and 18.0/110 at 7 days for unwashed eyes and a mean PIS = 4.7/110 for washed eyes at 72 hours; a primary dermal irritation study (rabbits) with a mean PIS = 4.83/8.0 at 72 hours post-treatment; a guinea pig maximization test with a Grade V contact sensitizer rating.

The studies evaluated for bromoxynil technical include a 13-week feeding study (dog) with a no-observed-effect level (NOEL) of 5 mg/kg/day (200 ppm); a 13-week feeding study (rat) with a NOEL of 312 ppm; a teratology study (rat) with a teratogenicity NOEL of greater than 15 mg/kg and a fetal toxicity NOEL equal to 5 mg/kg; a microbial mutagenic assay, nonmutagenic to *Salmonella typhimurium* tester strains, and a three-generation reproduction (rat) study with a NOEL of 300 ppm.

Data currently lacking include additional information on previously submitted oncogenicity and chronic feeding studies on rats and mice. The company has been notified of the deficiencies and has agreed to submit the additional information.

The current provisional acceptable daily intake (PADI) is 0.0050 mg/kg/day based on the 13-week dog feeding study noted and using a 1,000-fold safety factor. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.30 mg/day. The theoretical maximum residue contribution from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0352 mg/day. The current action does not increase the PADI. Published tolerances utilize 11.74 percent of the PADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography with ^{63}Ni electron detector, is available for enforcement purposes. Since no detectable residues are expected in corn grain, fodder, forage; sorghum grain, forage or fodder; wheat grain or straw; and oat, grain and straw; no detectable residues would be expected in meat, milk, poultry, and eggs. Even if residues do occur in corn, the established meat tolerances will cover any secondary residues resulting from this use. There are presently no actions pending against the continued registration of the pesticide.

The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1982 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 4, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

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

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

2. Section 180.324 is amended by adding paragraph (c) to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

(c) Tolerances are established for residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) resulting from application of its heptanoic acid ester in or on the following raw agricultural commodities:

Commodities	Parts per million
Barley, forage (green)	0.1
Barley, grain	0.1
Barley, straw	0.1
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Corn, fodder (dry)	0.1
Corn, forage (green)	0.1
Corn, grain	0.1
Flaxseed	0.1
Flaxseed, straw	0.1
Garlic	0.1
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Grass, canary, annual, seed	0.1
Grass, canary, annual, straw	0.1
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Mint hay	0.1
Oats, forage (green)	0.1
Oats, grain	0.1
Oats, straw	0.1
Onions (dry bulb)	0.1 (N)
Rye, forage (green0	0.1
Rye, grain	0.1
Rye, straw	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1
Sorghum, fodder	0.1
Sorghum, forage (green)	0.1
Sorghum, grain	0.1
Wheat, forage (green)	0.1
Wheat, grain	0.1
Wheat, straw	0.1

[FR Doc. 85-24758 Filed 10-16-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amendment E-258]

Ordering Errors

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation extends the current timeframe required for agencies to request authorization to return material and provides the address of the GSA regional office responsible for processing the requests. This change also allows additional time for customers to request return of merchandise. There should be no impact on operations to send all requests to one GSA office, and since many items appreciate in value, it would be cost effective to take advantage of original procurement costs in reissuing previously purchased items.

EFFECTIVE DATE: October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Gary L. Hood, Director, Requisition Management Division ((703) 557-8570).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101-26 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-26.3 Procurement of GSA Stock Items

2. Section 101-26.310 is amended to revise the introductory paragraph and paragraph (a)(2) to read as follows:

§ 101-26.310 Ordering errors.

In accordance with the provisions of this § 101-26.310, GSA may authorize agencies to return for credit material that has been ordered in error by the agency. Material shipped in error by GSA is subject to the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8). Credit for material ordered in error will be based on the selling price billed the agency at the time shipment was made to the agency, with the adjustment reflected in current or future billings. Material shall not be returned until appropriate documentation is received from GSA.

(a) * * *

(2) Authorization to return is requested from the GSA Discrepancy Reports Center (6FRB), 1500 East Bannister Road, Kansas City, MO 64131 within 45 calendar days (60 calendar days for overseas points) after receipt of shipment. Requests should always contain a complete explanation of reason(s) for return of the material. Exceptions may be granted on a case-by-case basis when GSA is in need of the material and extenuating circumstances precluded earlier submission of the request.

* * * * *

Dated: April 23, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85-24714 Filed 10-16-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3430 and 3450

[Circular No. 2570]

Noncompetitive Leases and Management of Existing Leases; Amendment To Remove Cost Recovery Provision for Coal Land Exchanges and To Reinstate a Transfer Approval Requirement

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend two parts of the Coal Management regulations in 43 CFR Group 3400. The first amendment will remove the existing mandatory requirement for cost recovery for fee title exchanges in alluvial valley floors presently in 43 CFR Part 3430. This amendment reflects a change in the policy of the Department of the Interior. The second amendment will reinstate a provision in 43 CFR Part 3450 giving the authorized officer authority to disapprove a coal lease transfer if financial data about the transfer are not submitted. The second amendment is required because the provision was inadvertently removed by the final rulemaking published in the **Federal Register** on July 30, 1982 (47 FR 33146).

EFFECTIVE DATE: November 18, 1985.

ADDRESSES: Any inquiries or suggestions should be sent to: Director (650), Bureau of Land Management, Room 3608, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Carole Smith, (202) 343-4774

or

Robert C. Bruce (202) 343-8735

SUPPLEMENTARY INFORMATION: A proposed rulemaking making these amendments to 43 CFR Parts 3430 and 3450 was published in the **Federal Register** on June 7, 1985 (50 FR 23997), with a 60-day comment period ending on August 6, 1985. During the comment period, comments were received from 6 sources, all from representatives of the energy industry. All of the comments supported the deletion of the cost recovery requirement for processing alluvial valley floor fee title exchanges involving coal. No comments were received on the proposal to reinstate the authorized officer's authority to disapprove coal lease transfer applications when insufficient financial information is submitted.

One of the comments objected to retaining the requirement for cost recovery for processing the exchange of alluvial valley floor lease exchanges because these exchanges benefit the United States and the public to the same extent as does a fee coal exchange in an alluvial valley floor. This comment expressed the view that a coal lease was a property right, and the requirement that the alluvial valley coal lease exchange proponent pay the administrative costs of the exchange was the taking of a part of this property right.

The issuance of a coal lease for Federally-owned reserves does not guarantee development of those reserves. A coal lessee, in accepting a lease, is subject to the terms and conditions contained in that lease, to the requirements of later enacted statutes and to court interpretation of the intent of Congress in enacting the specific statutes affecting the use of the lease. In *NCA and Texaco* v. *Andrus* Civil No. 79-2448 (D.D.C., August 15, 1980), the Court made a distinction between exchanges of fee title and exchanges of leases, based on a review of the legislative history of section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260). In its ruling, the Court stated that the fee title alluvial valley floor exchanges are mandatory under the Act but that coal lease alluvial valley floor exchanges are discretionary and subject to the public interest test. Even though the decision did not address the question of administrative costs, a distinction should be made between fee title and lease alluvial valley floor exchanges in order to recognize the distinction the Court's decision made between the two types of exchanges.

Further, if the exchange of a coal lease in an alluvial valley floor is completed, the coal lessee is compensated for the loss of the opportunity to mine the coal covered by its lease by receiving a lease of equal value in another area acceptable for mining. Therefore, if the exchange is completed, the lessee's opportunity to develop a coal lease has not been denied; only the location of the opportunity has been changed.

Therefore, the final rulemaking amends §§ 3436.1-2 and 3436.2-3 to delete the cost recovery requirement for exchanges of fee title in alluvial valley floors but maintains the cost recovery requirements for the exchange of coal leases in alluvial valley floors.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes will reduce the costs to the fee title holder of fee exchanges and will reinstate a requirement that had been a part of the existing regulations before it was inadvertently omitted. The change will have equal impact on anyone who falls under their provisions, whether large or small.

The final rulemaking contains no new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

The principal author of this final rulemaking is Carole Smith, Division of Solid Mineral Leasing, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

List of Subjects

43 CFR Part 3430

Administrative practice and procedure, Coal, Environmental protection, Intergovernmental relations, Mines, Public lands—mineral resources.

43 CFR Part 3450

Coal, Mines, Public lands—mineral resources, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), the Multiple Mineral Development Act (30 U.S.C. 521-531), the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083-1092), the Act of October 30, 1978 (92 Stat. 2073-2075) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) Parts 3430 and 3450, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: October 1, 1985.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

PART 3430—[AMENDED]

1. The authority citation for Part 3430 is revised to read:

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351-359; 30 U.S.C. 521-531; 30 U.S.C. 1201 et seq.; and 43 U.S.C. 1701 et seq.

§ 3436.1–2 [Amended]

2. Section 3436.1–2(f) is amended by removing the period at the end thereof and adding the phrase ", if the exchange is completed:"

§ 3436.2–3 [Amended]

3. Section 3436.2–3 is amended by removing paragraph (f) in its entirety.

PART 3450—[AMENDED]

4. The authority citation for Part 3450 is revised to read:

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; and 43 U.S.C. 1701 et seq.

§ 3453.3–1 [Amended]

5. Section 3453.3–1(a) is amended by amending paragraph (7) by adding immediately after the citation "§ 3453.2–2(e)" where it appears, the phrase "and (f)".

[FR Doc. 85–24706 Filed 10–16–85; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 3 and 11

Technical Amendment and Correction

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule and correction.

SUMMARY: This deletes or changes incorrect references to the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of the General Counsel, Room 840, 500 C Street SW., Washington, DC 20472, (202) 646–4096.

SUPPLEMENTARY INFORMATION:

List of Subjects in 44 CFR Part 3

Conflict of interest.

Accordingly:

§ 3.1061 [Amended]

1. Title 44, Code of Federal Regulations is amended as follows: Section 3.106(b) is amended by removing "(5 CFR 27(a)(2)(ii))".

PART 11—[CORRECTED]

2. In FR document 85–23324 appearing in the October 1 **Federal Register** at 50 FR 40007, first column item 5 under Part 11 is corrected by changing § 11.57(a) to read § 11.54(a).

Spence W. Perry,

Acting General Counsel.

[FR Doc. 85–24606 Filed 10–16–85; 8:45 am]

BILLING CODE 6718–01–M

44 CFR Part 65

[Docket No. FEMA–6657]

Changes in Flood Elevation Determinations; Florida

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of interim rule.

SUMMARY: The Federal Insurance Administration has erroneously published the notice of changes in flood elevation determination for the Unincorporated Areas of Orange County, Florida. This notice will serve to delete that publication. Due to an unexpected problem in the process of public notification, the notice inadvertently cited incorrect newspaper publication dates.

EFFECTIVE DATE: October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646–2751.

SUPPLEMENTARY INFORMATION: As a result of an unexpected problem in the process of public notification, the Federal Emergency Management has determined that the notice of changes in flood elevation determination for the Unincorporated Areas of Orange County, Florida, published at 50 FR 32569, on August 13, 1985, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: October 3, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85–24748 Filed 10–16–85; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 205

Technical Amendment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document contains an amendment to the appointment authority for the Federal Coordinating Officer in the FEMA regulations appearing in Title 44 CFR Part 205. This amendment is consistent with the Final Rule published in the **Federal Register** on October 1, 1985, that contained amendments to FEMA regulations appearing in Title 44.

EFFECTIVE DATE: October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3616.

List of Subjects in 44 CFR Part 205

Disaster assistance.

Accordingly, Part 205 of Title 44 is amended as follows:

PART 205—FEDERAL DISASTER ASSISTANCE

1. The authority citation for Part 205 continues to read as follows:

Authority: 42 U.S.C. 5201, Reorganization Plan Number 3 of 1978, Executive Order 12127, Executive Order 12148.

2. Paragraph (a) of § 205.41 is amended by adding the following words preceding "the Associate Director": "the Director, or in his absence, the Deputy Director, or alternatively".

Dated: October 10, 1985.

Spence Perry,

Acting General Counsel.

[FR Doc. 85–24605 Filed 10–16–85; 8:45 am]

BILLING CODE 6718–01–M

ACTION

45 CFR Part 1206

Denial of Application for Refunding

AGENCY: ACTION.

ACTION: Final regulation.

SUMMARY: These are the final regulations to implement the changes in notice and hearing procedures contained in the Domestic Volunteer Service Act Amendments of 1984, Pub. L. 98–288. These changes, specifically revising § 1206.2–4 of 45 CFR, Procedures, are discussed in Supplementary Information. This regulation was published in proposed form, March 19, 1985.

DATE: This regulation shall take effect on December 2, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald C. Owens, Associate General Counsel, ACTION, 806 Connecticut Avenue, NW., Washington, D.C., (202) 634–9333.

SUPPLEMENTARY INFORMATION: The 1984 amendments (cited above) to the Domestic Volunteer Service Act of 1973 Pub. L. 93–113, as amended) made three significant changes to the Agency's

notice and hearing procedure, section 412 of the Act, pertaining to the denial of applications for refunding. Accordingly, the regulations contained in 45 CFR 1206.2–4, dealing with Procedures, are proposed to be revised.

Specifically, the three changes contained in the statute are:

1. Grant recipients are to be given at least 75 days notice of the intent to deny refunding, section 412(a)(2) of the Act. The prior statute and current agency regulations do not specify a definite time.

2. All meetings or hearings to be afforded the recipient under this section are to be "held at locations convenient to the grant recipient," section 412(b) of the Act. The prior statute was silent on this issue.

3. In those situations in which the denial of refunding is based upon a charge of "failure to comply with the terms and conditions of the grant or contract award, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to be the recipient and the Agency," section 412(a)(3), of the Act. Previously, an informal *meeting* with an agency official was the sole procedure available under current regulations for grantees in all denial situations.

The change noted in item 1, pertaining to the 75 day notice requirement, is relatively self-explanatory and is reflected in proposed § 1206.2–4(b).

The second change, reflected in proposed § 1206.2–4(e), regarding location of meetings, is explained by the Congressional Conference Report accompanying the 1984 legislation, House Report 98–679. The Report states that "the location selection for the hearings and meetings should take into consideration convenience to the recipient and the agency as well as the cost of travel and other related costs for the hearing. The conferees intend the provision in section 412 to improve the services to clients of the ACTION programs, not to defer considerable amounts of funding to a hearing process."

In accordance with the Congressional guidance, this proposed revision, paragraph (e), is designed to achieve a reasonable balance between convenience to the grantee and the cost to the agency. The proposal requires that consideration be given to the locale of the recipient and to pay for travel expenses of two recipient representatives, if the location of the meeting with the agency official is elsewhere.

The third change, which deals with the nature of the hearing, is reflected in proposed § 1206.2–4(d). This statutory requirement, which calls for an "impartial hearing officer" (subsection (a)(3) of section 412 of the Act) should be understood as not to be applicable in all denial of refunding situations. Still remaining in the law is the procedure of providing the recipient an informal meeting with an agency official to discuss the reasons for denial, section 412(a)(2) of the Act.

To understand the distinction between the application of subsection (a)(2) and (a)(3) procedures, it is instructive to note that the Conference Report indicates that the new provision, subsection (a)(3), would apply only "in cases where there is a *charge of failure* to comply with terms of the grant or contract." (italics supplied) The Conference Report further states that the Conferees "do not intend to interfere with the right of the agency to exercise administrative discretion in deciding which grantees or contractors to refund on grounds of generally applicable policy, or where funding reductions become necessary for reasons beyond the agency's control, or where the recipient has ineffectively managed agency resources or substantially failed to comply with a contract or grant agreement with the agency. In these types of cases the agency would be required to provide the recipient with reasons for the decision and afford it an opportunity to show cause at an informal meeting as to why the action should not be taken."

The proposed regulation, § 1206.2–4(d), is designed to implement the distinction between these situations requiring an informal meeting and those requiring an informal hearing. In those more extreme cases in which there is a *charge* of failure to comply with the grant, implying wrongdoing, the recipient will be given the opportunity to present its case in front of a neutral party. As noted in the Conference Report, "the authority of the hearing officer shall be to conduct the hearing and to make recommendations, but the final decision on refunding will remain with the ACTION Agency." Because the hearing is specified as "informal", such proceeding is not anticipated to involve mandatory procedures such as the swearing of witnesses, recording of testimony, strict application of the rules of evidence or other features inherent in formal hearing proceedings.

Informal meetings, those instances not requiring an impartial hearing officer, will continue to be conducted as they have in the past, as outlined in proposed § 1206.2–4(c). Paragraph (c) is revised to permit a longer time period between the time of notification and holding of the informal meeting, from 21 to 30 days. This change is made in light of the fixed time not required for notification of tentative denial, 75 days.

ACTION has determined that this regulation is not a major rule as defined by Executive Order 12291. Pursuant to section 3(c)(3) of E.O. 12291, entitled "Federal Regulation", the required review process has been completed by the Director of the Office of Management and Budget.

Discussion Of Comments Received

Following publication of the regulations in proposed form, **Federal Register** Vol. 50 No. 53, March 19, 1985 (beginning at page 10998), the Agency received a total of three (3) comments from the public, all of which were from sponsors of ACTION programs. One of the commenters simply indicates support for the proposals.

Another commenter suggests that the informal hearing witnesses be sworn and the proceedings videotaped, agreeing, however, that there is not the need to adhere to the rules of evidence. The Agency, having considered this suggestion, determines that neither the law nor the interest of economy supports such a requirement. Congress was careful in drafting section 412(a)(3) to use the adjective "informal" in describing the nature of the hearing before the impartial hearing office in denial of refunding situations. This contrasts with the more comprehensive nature of a "full" hearing specified in termination situations under section 412(a)(4). Further, the Congressional Conference Report which accompanied the revison of section 412 states that it is the intention "not to defer considerable amounts of funding to a hearing process."

The third commenter disputes that the proposed regulations adhere to the law in regard to the mandatory use of the impartial hearing officer procedure. This commenter writes that the "opportunity to show cause", section 412(a)(2)(B), does not mean merely an informal meeting with an agency official, as currently described in both the present and proposed revised regulations, but that such opportunity is defined in the subsequent subsection, (a)(3), as an "informal hearing before an impartial hearing officer." Further, the commenter states "it is my opinion that an informal meeting for discussion, clarification, and informal debate is a good idea as a preliminary step, but *not* as a *replacement* for an informal hearing before an impartial hearing officer." Additionally, the commenter proposes that the regulations be rewritten to

provide for the hearing officer procedure "*whenever* the grant recipient is *cited* for inefficient management of agency resources."

Relying on the legislative history of section 412 and the principles of statutory construction, the agency concludes that these comments are unpersuasive.

The Agency notes that the provisions pertaining to a recipient's opportunity to show cause contained in the previous version of section 412 were retained intact by Congress in the 1984 statute, in the form of section 412(a)(2). ACTION's long standing regulations, based upon the previous section 412, outline the procedure for such show cause meetings as an opportunity for a recipient "to meet informally with an ACTION official to show cause why its application for refunding should not be rejected." Congress, having just considered this matter, made no reference to changing or enlarging the definition of this existing informal procedure. Rather, the Congressional Conference Report, commenting directly on this point, indicated that in cases other than those "where there is a charge of failure to comply with the terms of the grant," which would require an impartial hearing officer, "the Agency would be required to provide the recipient with reasons for the decision and afford it an opportunity to show cause at an informal meeting."

This Report takes further care to distinguish this latter situation from that of a "charge of failure," which requires an impartial hearing officer, by stating that "the Conferees do not intend to interfere with the right of the Agency to exercise administrative discretion. . . . where the recipient has ineffectively managed agency resources." This language runs directly contrary to the suggestion that the hearing officer procedure be employed in situations where "the recipient is *cited* for inefficient management", as proposed by the commenter.

The Agency further notes that direct examination of the statute, apart from the legislative history, supports the proposition that the prescribed procedures of the informal hearing and impartial hearing officer exist independently. Subsection (a)(2)(B) and subsection (a)(3) are distinct and self-contained, do not refer to one another, and are not connected by any modifier or conjunction. Further, the specific text of subsection (a)(3), requiring the hearing officer, states that its provisions apply in certain described cases, directly supporting the conclusion that its provisions do not apply to all denial of refunding cases.

List of Subjects in 45 CFR Part 1206

Grant programs—Social programs, Volunteers.

Accordingly, 45 CFR Part 1206 is amended as follows:

PART 1206—[AMENDED]

1. The authority citation for Part 1206 is revised to read as follows:

Authority: 42 U.S.C. 4951 et seq.; Pub. L. 93-113, as amended by Pub. L 98-288.

2. In Subpart B—Denial of Application for Refunding, § 1206/2-4 is revised to read as follows:

Subpart B—Denial of Application for Refunding

§ 1206.2-4 Procedures.

(a) The procedures set forth in paragraphs (b) through (g) of this section shall apply only where an application for refunding submitted by a current recipient is rejected or is reduced to 80 percent or less of the applied-for level of funding or the recipient's current level of operations, whichever is less. It is further a condition for application of these procedures that the rejection or reduction be based on circumstances related to the particular grant or contract. These procedures do not apply to reductions based on legislative requirements, or on general policy or in instances where, regardless of a recipient's current level of operations, its application for refunding is not reduced by 20 percent or more. The fact that the basis for rejecting an application may also be a basis for termination under subpart A of this part shall not prevent the use of this subpart to the exclusion of the procedures in Subpart A.

(b) Before rejecting an application of a recipient for refunding ACTION shall notify the recipient of its intention, in writing, at least 75 days before the end of the recipient's current program year or grant budget period. The notice shall inform the recipient that a tentative decision has been made to reject or reduce an application for refunding. The notice shall state the reasons for the tentative decision to which the recipient shall address itself if it wishes to make a presentation as described in paragraphs (c) and (d).

(c) If the notice of tentative decision is based on any reasons, other than those described in paragraph (d) of this section, including, but not limited to, situations in which the recipient has ineffectively managed Agency resources or substantially failed to comply with agency policy and overall objectives under a contract or grant agreement with the Agency, the recipient shall be informed in the notice, of the opportunity to submit written material and to meet informally with an ACTION official to show cause why its application for refunding should not be rejected or reduced. If the recipient requests an informal meeting, such meeting shall be held on a date specified by ACTION. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days, nor more than 30 days, after ACTION has mailed the notice to the recipient. If the recipient requests an informal meeting, the meeting shall be scheduled by ACTION as soon as possible after receipt of the request. The official who shall conduct this meeting shall be an ACTION official who is authorized to finally approve or make the grant of assistance in question, or his designee.

(d) If the notice of tentative decision is based upon a specific charge of failure to comply with the terms and conditions of the grant or contract, alleging wrongdoing on the part of the recipient, the notice shall offer the recipient an opportunity for an informal hearing before a mutually agreed-upon impartial hearing officer. The authority of such hearing officer shall be limited to conducting the hearing and offering recommendations. ACTION will retain all authority to make the final determination as to whether the application should be finally rejected or reduced. If the recipient requests an informal hearing, such hearing shall be held at a date specified by ACTION. However, such hearing may not, without the consent of the recipient, be scheduled sooner than 14 days nor more than 30 days after ACTION has mailed the notice to the recipient.

(e) In the selection of a hearing official and the location of either an informal meeting or hearing, the Agency, while mindful of considerations of the recipient, will take care to insure that costs are kept to a minimum. The informal meeting or hearing shall be held in the city or county in which the recipient is located, in the appropriate Regional Office, or another appropriate location. Within the limits stated in the preceding sentence, the decision as to where the meeting shall be held will be made by ACTION, after weighing the convenience factors of the recipient. For the convenience of the recipient, ACTION will pay the reasonable travel expenses for up to two representatives of the recipient, if requested.

(f) The recipient shall be informed of the final Agency decision on refunding and the basis for the decision by the deciding official.

(g) If the recipient's budget period expires prior to the final decision by the deciding official, the recipient's authority to continue program operations shall be extended until such decision is made and communicated to the recipient. If a volunteer's term of service expires after receipt by a sponsor of a tentative decision not to refund a project, the period of service of the volunteer may be similarly extended. No volunteers may be reenrolled for a full 12-month term, or new volunteers enrolled for a period of service while a tentative decision not to refund is pending. If program operations are so extended, ACTION and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

Signed at Washington, DC, this 9th day of October, 1985.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 85-24626 Filed 10-16-85; 8:45 am]

BILLING CODE 4050-28-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction for Fort Hall Indian Reservation, Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule, correction.

SUMMARY: On September 25, 1985, the Service published in the **Federal Register** seasons, limits, and shooting hours for waterfowl and certain other migratory game birds. This rule revises §§ 20.104 and 20.105 of 50 CFR to correct the opening and closing dates for ducks, coots and common snipe in Idaho.

DATE: Effective on October 17, 1985.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. Phone (202) 254-3207.

SUPPLEMENTARY INFORMATION: On September 25, 1985, the Service published in the **Federal Register** (50 FR 38952) seasons, limits, and shooting hours for certain migratory game birds. During the last three weeks, however, intensive negotiations have taken place between the State of Idaho, the Shoshone-Bannock Tribes and the U.S Fish and Wildlife Service regarding the establishment of a special hunting zone affecting the Fort Hall Indian Reservation. As a result of these negotiations, the State of Idaho and the Shoshone-Bannock Tribes recently notified the Service of the need to publish an adjustment to the State migratory bird regulations published on September 25, 1985. Therefore, the current regulations for Idaho set out in the table under § 20.104 for seasons, limits, and shooting hours for rails, woodcock and common snipe in the Pacific Flyway (50 FR 38955) are incorrect. Similarly, the table under § 20.105 where the seasons, limits, and shooting hours are listed for waterfowl, coots and gallinules in the Pacific Flyway (50 FR 38965) is incorrect for the State of Idaho. Idaho established its duck, coot and common snipe seasons by zones and the seasons should read as follows: The duck, coot and common snipe season on all lands within the boundary of that portion of the Fort Hall Indian Reservation in Bannock, Bingham and Power Counties is October 19, 1985, through January 5, 1986. The duck, coot and common snipe season within the remainder of the State is October 12, 1985, through December 1, 1985, and December 16, 1985, through January 12, 1986. Daily bag and possession limits in both zones remain the same as published on September 25, 1985.

PART 20—[AMENDED]

1. Accordingly, the Service corrects § 20.104 of 50 CFR Part 20 at 50 FR 38955, by revising the seasons for common snipe in Idaho as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

SEASONS IN THE PACIFIC FLYWAY

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Idaho: All lands within the boundary of that portion of the Fort Hall Indian Reservation in Bingham, Bannock and Power Counties.	Closed	Closed	Closed	Oct. 19-Jan. 5.
Remainder of the State	Closed	Closed	Closed	Oct. 12-Dec. 1 and Dec. 16-Jan. 12.

* * * * *

§ 20.105 [Corrected]

2. The Service corrects § 20.105 of 50 CFR Part 20 at 50 FR 38965, by revising the duck, coot and common snipe seasons in Idaho as follows:

PACIFIC FLYWAY

	Season dates	Limits	
		Bag	Possession
Idaho (6): All lands within the boundary of that portion of the Fort Hall Indian Reservation in Bannock, Bingham and Power Counties:			
Ducks	Oct. 19-Jan. 5	(*)	(*)
* * *	* * *		
Coots	Same as for ducks	25	25
Common snipe	Same as for ducks	8	16
Remainder of the State:			
Ducks	Oct. 12-Dec. 1 and Dec. 16-Jan. 12	(*)	(*)
* * *	* * *		
Coots	Same as for ducks	25	25
Common snipe	Same as for ducks	8	8

* * * * *

Public comment was received on proposed rules for the season and limits contemplated herein. These comments were addressed in **Federal Registers** dated June 4, 1985, (50 FR 23459), August 13, 1985, (50 FR 32587) and September 5, 1985, (50 FR 36198). By the nature of the corrections and the time available, these changes must become effective immediately. Accordingly, the Notice and public comment required by the Administrative Procedure Act is unnecessary, and the Service finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register.** The Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and Executive

Order 12291 in the Federal Register dated March 14, 1985, (at 50 FR 10282). The seasons promulgated by this rule are authorized under the Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 703–711), as amended.

Dated: October 15, 1985.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-24785 Filed 10-15-85; 3:26 pm]

BILLING CODE 4310-55-M

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50 CFR Part 23

Export of American Ginseng Harvested in 1985–1987 Seasons

Correction

In FR Doc. 85–23323, beginning on page 39691, in the issue of Monday, September 30, 1985, make the following corrections:

1. On page 39693, in the first column, in "Item 5", in the thirteenth line, "source" should appear before "once". In the same column, in the eighth line from the bottom of the page, "supplies" should read "supplied". In the second column, in the first paragraph (3), in the fourth line, "ecosystem" should read "ecosystems". In the same column, in the ninth line from the bottom of the page, the second "of" should read "or". In the third column, in paragraph (7), in the last line, "result" should read "results". And in the same column, in the sixth line from the bottom, "artifically" should read "artificially".

2. On page 39694, in the first column, in the first line, the first word should read "publications". In the third column, in the last complete paragraph, in the twelfth line, "official" should read "officials". And in the same paragraph, in the sixteenth line, "commenre" should read "commerce".

3. On page 39695, in the second column, in the last complete paragraph, in the next to the last line, insert "by" after "collected". In the same column, in the tenth line from the bottom, "1873" should read "1973". On the same page, in the third column, in the eighth line above the note, "of" should read "on". In the note, in the tenth line from the bottom, "any" should read "and". Also in the note, in the next to the last line from the bottom, insert "of" after "Act". And in the next to the last line of the same column, "Plant" should read "Plants".

4. On page 39696, in the first column, in the first line of the paragraph below the part heading, "32" should read "23". In the same column, in the first line of the authority citation, "of" should read "on", and in the last line, "1631" should read "1531". In the same column, in amendatory instruction 2, in the first line, "revised" should read "revise". In § 23.51(e), in the first line, "1882" should read "1982", and in paragraph (f), in the first line, the years should read "1985–1987".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 50711-5111]

Foreign Fishing; Groundfish of the Gulf of Alaska

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

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends an emergency rule now in effect that reduces the optimum yields for four groundfish species, specifies initial 1985 groundfish harvest levels, and establishes prohibited species catch limits for certain groundfish species. Extension of this emergency rule is necessary to promote the conduct of an orderly commercial fishery and to avoid wastage of large amounts of target groundfish species that would otherwise not be taken if incidental catches were to be prohibited. It is intended to promote full achievement of the desired harvest level of groundfish species while conserving groundfish species that are available only in limited amounts.

EFFECTIVE DATES: In § 611.92, paragraphs (b)(2), (c)(2)(i)(A), (D) and (E)(c)(2)(ii)(A), (B) and (C), (e)(3)(ii), and (f)(2)(i) are suspended from October 15, 1985 until December 31, 1985. New paragraphs (b)(5), (c)(2)(i)(F), (G), (H) and (I), (c)(2)(ii)(D), (E), (F), (G) and (H), and (i) are added, effective from October 15, 1985 until December 31, 1985. In Part 672, Table 1 in paragraph (a) of § 672.20 is replaced with a new table, a new paragraph (a)(4) is added to § 672.20, and new § 672.21 is added effective from October 15, 1985 until December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce has determined that the conditions discussed in the original interim rule (50 FR 29681, July 22, 1985) still exist. The condition of "species" is reduced; prohibited species catch limits are necessary to account for additional fishing mortality imposed on sablefish, Pacific ocean perch, and "other rockfish" in the foreign and joint venture fisheries. When the North Pacific Fishery Management Council voted for the optimum yield reductions and the prohibited species catch limits, it based its decision of the amount of fishing that would be conducted on available stocks for the entire 1985 fishing year. The Council's action is affirmation of the extension of this emergency rule through December 31, 1985 under section 305(e)(3)(B) of the Magnuson Fishery Conservation and Management Act.

Classification

The Administrator of NOAA has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. This action will: (1) Promote prevention of overfishing certain groundfish stocks, (2) minimize disruption in foreign and joint venture fishing operations that could otherwise occur, and (3) will promote developing domestic groundfish fishery. The Assistant Administrator also finds that potential for disruption of foreign and joint venture fishing operations during the few weeks remaining of the fishing year make it impracticable and contrary to the public interest to provide notice and a prior opportunity for public comment, or to delay the effective date of this rule for 30 days.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: October 10, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85-24690 Filed 10-11-85; 9:28 am]

BILLING CODE 3510-22-M

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50 CFR Parts 611 and 672

[Docket No. 41046-4174]

Foreign Fishing and Groundfish of the Gulf of Alaska

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

ACTION: Notice of inseason adjustments; correction.

SUMMARY: This document corrects Table 1, Gulf of Alaska Reapportionments of OY, which was included in the notice of inseason adjustments, Groundfish of the Gulf of Alaska published July 22, 1985, 50 FR 29681.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist), 907–586–7229.

The following corrections are made in FR Doc. 85–17375, page 29681, Table 1:

1. On the same line as "This action" the amount "+8,000" is added under the "DAH" column.

2. On the same line as "Revised" the amount "264,871" is added under the "DAH" column.

Dated: October 10, 1985.

Willam G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85–24691 Filed 10–16–85; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 650

[Docket No. 31222–246]

Atlantic Sea Scallop Fishery

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

ACTION: Notice of continuation of adjusted meat count and shell height standards; correction.

SUMMARY: This document corrects a sentence by deleting an unnecessary word in the summary of the *Notice of continuation of adjusted meat count and shell height standards* for Atlantic sea scallops published September 25, 1985, 50 FR 38820.

FOR FURTHER INFORMATION CONTACT: Carol Kilbride (Scallop Management Coordinator), 617–281–3600, ext. 244.

In FR Doc. 85–22933, page 38820, column 1, line 3, the word "redundant" is deleted. The sentence is corrected to read: "NOAA extends the present average meat count standard for Atlantic sea scallops of 35 meats per pound (minimum shell height of 3⅝ inches), through December 31, 1985, unless superseded by the implementation of Amendment 1."

Dated: October 10, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85–24692 Filed 10–16–85; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 50, No. 201
Thursday, October 17, 1985

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1772

Approval of Standards, Specifications, Equipment Contract Forms, Manual Sections, and Drawings and Acceptance of Materials and Equipment for the Telephone Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1700 by adding a new § 1772.1, Approval of Standards, Specifications, Equipment Contract Forms, Manual Sections, and Drawings and Acceptance of Materials and Equipment for the Telephone Program. This material was previously set forth in REA Bulletin 345–3, Acceptance of Standards, Specifications, Equipment Contract Forms, Manual Sections, Drawings, Materials and Equipment Acceptable for Rural Electrification Administration Financing for the Telephone Program. REA is currently codifying all of its policy bulletins of which 345–3 is one. In addition to codifying the bulletin, revisions have been made which limit the use of letters of technical acceptance.

DATE: Public comments must be received by REA no later than December 16, 1985.

ADDRESS: Submit written comments to M. Wilson Magruder, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: E. J. Cohen, Engineering Management and Standards Engineer, Telecommunications Engineering and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8698. The Draft Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1700 by adding a new § 1772.1, Approval of Standards, Specifications, Equipment Contract Forms, Manual Sections, and Drawings and Acceptance of Materials and Equipment for the Telephone Program. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment. This regulation contains no information or record keeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*). This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 54317, December 1, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Copies of the document are available upon request from the address indicated above. Interested persons are invited to submit comments on this action. Written comments must be sent to the address stated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

The Rural Electrification Administration, as part of its actions to assure the security of its loans, approves documents and accepts materials and equipment for use on the telephone systems of REA borrowers. As part of its Codification program, REA is incorporating this section in the CFR and concurrently updating requirements on the issuance of letters of technical acceptance. The revision will preclude the issuance of these letters to domestic suppliers as such products, if accepted by REA, will be listed in Bulletin 344–2, List of Materials Acceptable for Use on Telephone Systems of REA Borrowers. Issuance of letters of technical acceptance to foreign suppliers will be restricted to products where a domestic equivalent is listed in Bulletin 344–2. In addition, such letters will be granted only to suppliers who have demonstrated an active participation in the REA program.

List of Subjects in 7 CFR Part 1772

Loan programs—communications, Telecommunications, Telephone.

In view of the above, REA is proposing to amend 7 CFR 1772 as follows:

PART 1772—TELEPHONE STANDARDS AND SPECIFICATIONS

1. The authority citation for Part 1772 continues to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. Section 1772.1 is added as follows:

§ 1772.1 Approved of standards, specifications, equipment contract forms, manual sections, and drawings and acceptance of materials and equipment for the telephone program.

(a) To assure that telephone systems financed with loan funds are adequate to serve the intended purpose and that loan funds are adequately secured, REA determines what standards, specifications, equipment contract forms, manual sections, and drawings (also collectively referred to as

"documents"), and materials and equipment (also referred to as "products") shall be used in designing and building REA-financed telephone systems and, when necessary in its opinion, REA revises these documents. REA publishes and updates the List of Materials Acceptable for Use on Telephone Systems of REA Borrowers (the List of Materials) periodically to reflect changes in availability and acceptability of products.

(b) REA shall use the standards, rules and regulations of such engineering and standards groups as the American National Standards Institute (ANSI), and the various national engineering societies, and such references as the National Electrical Safety Code (NESC), and the National Electrical Code (NEC), to the greatest exent practical as determined by REA. REA shall be guided by OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards" in this activity. When there are no national standards, or where REA determines that the existing national standards are not satisfactory for REA purposes, REA shall prepare standards for material and equipment as necessary. REA standards and specifications are listed in Part 1772, Telephone Standards and Specifications, of the Code of Federal Regulations (CFR). REA shall also prepare specifications for materials and equipment, when it determines that such specifications will result in reduced costs, improved materials or equipment, or in more effective use of engineering services. No member of the REA staff is permitted to authorize deviation from the standard specifications or their effective dates, or to establish or change tenchnical standards, or to authorize the use of items that have not received acceptance by the Technical Standards Committees, except as provided for under paragraph (e), or by direct authorization from the Administrator of REA.

(c) Authority for approval of documents and determining acceptability or unacceptability of materials and equipment is assigned to the Technical Standards Committees. All inquiries concerning acceptance of a product must be addressed to: Chairman, Technical Standards Committee "A" (Telephone), Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250. The Technical Standards Committees are as follows:

(1) Technical Standards Committee "A" (Telephone) (TSC"A"(T)) reviews all proposals relating to approval of standards, specifications, equipment contract forms, manual sections, and drawings and acceptance of materials and equipment. Extensions or withdrawals of proposals previously approved or accepted shall also be considered to be proposals. An action of approval of acceptance by TSC"A"(T) shall be effective only if approved by at least 80% of the members of the Committee. An action approved by less than 80% of the members is rejected, except the TSC"A"(T) may by the affirmative vote of at least 80% of the members table the proposal when further information is required to permit the Committee to reach a decision or for other reasons considered sufficient by the Committee. Tabling invites resubmission at a future meeting at which time the proposal must be approved, accepted, or rejected. Manufacturers of products may appeal an unfavorable decision by TSC"A"(T) to Technical Standards Committee "B" (Telephone) (TSC"B"(T)).

(2) TSC"B"(T) reviews appeals of adverse decisions by TSC"A"(T). All actions by TSC"B"(T) shall be by majority vote and may include the same actions, with the same effect, as TSC"A"(T) may take. A manufacturer of a product may appeal an adverse decision by TSC"B"(T) to the Administrator for review. The Administrator may, at his option, select a delegate to hear the appeal.

(d) Guidelines for acceptance of materials and equipment are as follows:

(1) Only new items of materials and equipment shall be considered for acceptance.

(2) REA shall signify its acceptance of materials and equipment which meet the requirements of § 1790.1, of this title "Buy American" Requirement (REA Bulletin 344-3) of the CFR as a domestic product by including them in the List of Materials.

(3) REA shall signify its acceptance of materials and equipment which do not meet the requirements of § 1790.1 of this title, (REA Bulletin 344-3) as a domestic product by issuing a letter of technical acceptance. A letter of technical acceptance indicates that the product meets the technical requirements for listing but that it does not qualify as a domestic product. The issuance of letters of technical acceptance are subject to the following restrictions:

(i) REA will work with the manufacturers of foreign materials and equipment to determine if items are technically satisfactory. However, no letter of technical acceptance will be issued until the product in service in an REA-financed system and has been determined to be acceptable by an REA field trial or field experience determined by REA to be equivalent. When a field trial is required the procedure outlined in § 1772.3 of the CFR shall be followed.

(ii) When foreign materials and equipment has been determined to be technically satisfactory as described in (i), REA shall issue a letter of technical acceptance which shall be valid for a period of 24 months from the date of award of the contract, provided, that such letter shall cease to be valid if (a) the materials and equipment is changed in any respect not previously approved by REA or (b) REA should publish a final rule notice in the CFR of a change in its specifications for the materials and equipment.

(iii) At the end of the 24 month period the letter of technical acceptance may be renewed, for another 24 months from the date of the most recent REA-financed contract utilizing the product, upon the submission of a letter from the manufacturer stating that it plans to continue to sell the product for construction on REA-financed systems and that the product still meets the requirements in paragraph (ii) above. Similar renewals may be made for so long as the product continues to be used in contracts financed in whole or in part with Rural Telephone Bank (RTB) or REA loans or loan guarantees. If no such sale has been made within a period of 24 months, the letter of technical acceptance lapses and the product must be requalified as in (i) and (ii) before a new letter will be issued.

(4) REA will indicate acceptance of domestic products only by listing them in the List of Materials. If, in REA's opinion, the establishment of a category for listing a product is not justified, REA acceptance will not be granted to that product. Foreign products will not be granted technical acceptance unless a domestic equivalent is listed in the List of Materials. Nonlisted or nonaccepted products may still be used in accordance with section (e).

(5) All Letters of Technical Acceptance issued prior to (insert date of final publication of this § 1772.1), are hereby withdrawn.

(6) Items listed or accepted without condition may be used in any quantity in the normally anticipated applications. Items accepted subject to certain conditions, such as limited use to gain service experience or limited use appropriate to certain areas, conditions or applications, shall be considered to be accepted on a conditional basis and the conditions shall be cited as a part of the listing or technical acceptance.

(7) REA normally shall list or grant technical acceptance to only one item of a particular type of material or equipment for each manufacturer unless REA determines on a case-by-case basis to list more than one.

(8) The manufacturer shall submit to TSC"A"(T) any design changes affecting the quality, strength, electrical characteristics, or the performance or interface criteria for an item which has been accepted. TSC"A"(T) may decide to delist based solely on this data. *Failure to comply is justification for removal of the item from the List of Materials or revocation of the Letter of Technical Acceptance in accordance with Section (h).*

(e) Borrowers may use materials and equipment which are not included on the List of Materials and have not received a letter of technical acceptance only if the Area Director for that borrower determines that:

(1) All other REA requirements applicable to the product, such as, being technically satisfactory, being compatible with the system's design and meeting the "Buy American" requirements, etc., are satisfied and where:

(i) No category has been established in the List of Materials for the product, or

(ii) The supply of standard materials and equipment in the industry is not reasonably available for, or the standard designs are not applicable to, the borrower's specific problem under consideration. Arrangements for field trial use of newly developed items requiring trial installations shall be made in accordance with § 1772.3 of the CFR.

(f) The manufacturer (called the "sponsor" of a proposal for acceptance of materials and equipment) shall submit a written request including the following information to obtain REA consideration of acceptance of materials or equipment:

(1) A letter of request, in original and five copies, addressed to the Chairman, TSC"A"(T). (In the event that an item of material or equipment is being submitted for consideration by both Electric and Telephone Committees, a separate letter of request should be addressed to each Committee Chairman.) The letter should include the catalog number as well as a description of the item of material or equipment.

(2) Six copies of abbreviated specifications of manufacture, drawings and test data as applicable. One detailed and complete copy of specifications of manufacture, drawings, and test data as applicable.

(3) Six copies of the performance history from applications in telecommunications systems, if any.

(4) One or more samples of the item of material or equipment, if requested by REA.

(g) Consideration of standards, specifications, contract forms, manual sections or drawings for approval or withdrawal shall be obtained through the submission of a written request by a member of the Technical Standards Committees or by a member of the REA staff (the "sponsor" of a proposal for approval of documents).

(h) The sponsor shall be informed in writing by REA of the action taken on its proposal. The manufacturer of a product may request a review of an adverse decision by TSC"A"(T) by submitting a letter requesting such review to the Chairman, TSC"B"(T) within 10 days after receiving notice of the action by TSC"A"(T). In the event of an adverse decision by TSC"B"(T), the manufacturer may request a review by the Administrator or his delegate by submitting a letter requesting such review within 10 days after receiving notification of the action by TSC"B"(T). The Administrator may, at his option, select a delegate to hear the appeal.

(i) Materials or equipment previously accepted by the Technical Standards Committees may have the letter of technical acceptance revoked or may be removed from the List of Materials by an affirmative vote of at least 80% of the TSC"A"(T) members upon a finding that the item is unsatisfactory or has been misrepresented to a borrower or REA. The procedures for this action shall be as follows:

(1) The manufacturer of the materials or equipment shall be notified in writing of the proposed action. All relevant information available to TSC"A"(T) shall be made available to the manufacturer unless it is informed in writing of the reason or reasons information is withheld.

(2) Within 20 days of such notification, the manufacturer may submit to TSC"A"(T) a letter expressing its intent to submit written information relevant to TSC"A"(T)'s determination. Such information shall be submitted within 20 days from the submission of its letter to TSC"A"(T). TSC"A"(T) may make a decision following expiration of these time periods.

(3) TSC"A"(T) shall consider all relevant information presented to it in determining its action. Formal rules of evidence and procedures shall not apply to proceedings before TSC"A"(T).

(4) The Chairman, TSC"A"(T), may decide to afford an additional opportunity for presentation or consideration of relevant information at the request of the manufacturer including, without limitation, a meeting between TSC"A"(T) and other REA personnel and the manufacturer in such forum as the Chairman may decide.

(5) With the approval of at least 80% of its members, TSC"A"(T) may order the immediate revocation of the letter of technical acceptance or removal of an item of materials or equipment from the List of Materials, may establish conditions for continuing the letter of technical acceptance or retention of such item on the List of Materials, may recommend to the manufacturer a basis for settlement which adequately protects the interests of the Government, and may, at its option, postpone the effective date of its decision for a time sufficient to allow the manufactuer to appeal to TSC"B"(T). With approval by at least 80% of its members, TSC"A"(T) may also "table" a proposal pending further investigation of questions raised by the Committee. Tabling invites resubmission at a future meeting at which time TSC"A"(T) must render a decision. Written notice of TSC"A"(T)'s decision, stating the basis for the decision, shall be provided to the manufacturer.

(6) Within 10 days of notification of TSC"A"(T)'s decision a manufacturer may appeal an adverse decision by submitting to TSC"B"(T) a written request for a review of TSC"A"(T)'s decision, specifying the reasons for the request.

(7) TSC"B"(T)'s determination in response to such request shall be based on the record developed before TSC"A"(T) and such additional information as TSC"B"(T) may request. Formal rules of procedures and evidence shall not apply to proceedings before TSC"B"(T). TSC"B"(T), by majority vote, may uphold the action of TSC"A"(T), may order the immediate revocation of the letter of technical acceptance or removal of an item of materials or equipment from the List of Materials, may establish conditions for continuing the letter of technical acceptance or retention of such item on the List of Materials, may recommend to the manufacturer a basis for settlement which adequately protects the interests of the Government, and may, at its option, postpone the effectiveness of its decision for sufficient time to allow the manufacturer to make its appeal to the Administrator. By a majority vote TSC"B"(T) may also "table" a proposal pending further investigation of questions raised by the Committee. Tabling invites resubmission at a future meeting at which time TSC"B"(T) must

render a decision. Written notice of TSC"B"(T)'s decision, stating the basis for the decision, shall be provided to the manufacturer.

(8) Within 10 days of the receipt of TSC"B"(T)'s decision a manufacturer may appeal an adverse decision by submittting to the Administrator a written request for a review of TSC"B"(T)'s decision, specifying the reasons for such request.

(9) The Administrator may decline to review the decision of TSC"B"(T) in which case the decision of TSC"B"(T) shall stand. If a review is granted, the determination by the Administrator, or the Administrator's designee, shall be based on the record developed before TSC"A"(T) and TSC"B"(T) and such additional information as the Administrator or designee may request. Formal rules of procedure and evidence shall not apply to the actions before the Administrator.

(10) The Administrator may uphold the decision of TSC"B"(T), may order the immediate revocation of the letter of technical acceptance or removal of an item of equipment from the List of Materials, may establish conditions for continuing the letter of technical acceptance or retention of such item on the List of Materials, may recommend to the manufacturer a basis for settlement which adequately protects the interests of the Government. Written notice of the Administrator's determination, stating the basis for the decision, shall be provided to the manufacturer.

(j) With the approval of at least 80% of its members, TSC"A"(T) may temporarily revoke acceptance and remove an item from the List of Materials or temprorarily revoke a letter of technical acceptance effective immediately. This action may be taken without implementing the steps in (i), but only upon a determination that there is adequate information that:

(1) Continuation of the item on the List of Materials or retention of the letter of technical acceptance for an item might immediately impair Act purposes, endanger health and safety, or undermine loan security, and

(2) An item is unsatisfactory or has been misrepresented to a borrower or REA. The manufacturer shall be notifed promptly that its product has been temporarily removed from the List of Materials, or a letter of technical acceptance is temporarily withdrawn and that procedures as established in paragraph (i) will be undertaken promptly. Such suspension shall remain in effect pending the completion of administrative proceedings.

Dated: October 9, 1985.

Harold V. Hunter,

Administrator.

[FR Doc. 85-24671 Filed 10-16-85; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9198]

MidCon Corp., et al.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Lombard, Ill. natural gas pipeline owner and operator to divest its interest in the Louisiana portion of the Acadian Gas Pipeline System, which serves markets in Louisiana and Texas. The Acadian system is currently owned jointly by MidCon Corp. and Texas Oil and Gas Co. MidCon would also be required to obtain Commission approval before acquiring certain gas pipeline operations in the New Orleans/Baton Rouge market. This proposed consent agreement would resolve part of an outstanding two-count administrative complaint issued by the FTC that challenges MidCon Corp.'s proposed merger with United Energy Resources, Inc.

DATE: Comments must be received on or before December 16, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-908, Ronald B. Rowe, Washington, DC 20580. (202) 724-1441.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given tha the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rule of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Natural gas, Pipelines, Trade practices.

Before the Federal Trade Commission

[Docket No. 9198]

Agreement Containing Consent Order

In the Matter of MidCon Corp., a corporation, and United Energy Resources, Inc., a corporation.

The agreement herein, by and among MidCon Corp. ("MidCon"), United Energy Resources, Inc. ("United") and counsel of the Federal Trade Commission ("Commission"), is entered into in accordance with the Commission's Rules governing consent order procedures. In accordance herewith the parties agree that:

1. MidCon is a corporation organized under the laws of Delaware with its executive office at 701 East 22nd Street, Lombard, Illinois 60148.

United is a corporation organized under the laws of Delaware with its executive offices at 600 Travis Street, Houston, Texas 77251.

2. MidCon and United have been furnished a draft complaint, here attached, that the Bureau of Competition will present to the Commission for its consideration, which MidCon and United understand may then be issued by the Commission, charging MidCon and United with violations of the Clayton Act and Federal Trade Commission Act.

3. Midcon and United admit only the jurisdictional facts set forth in the Commission's draft complaint in the proceeding.

4. MidCon and United waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise challenge or contest the validity of the Order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Acts.

5. This agreement is for purposes of settlement of Count Two of the complaint only and does not constitute an admission by MidCon or United that the law has been violated as alleged in the complaint. This agreement does not settle any other Counts of the complaint.

6. MidCon and United understand and agree that the Commission's acceptance of this agreement and issuance of its

decision in disposition of Count Two of the complaint does not bar the Commission from seeking any other relief from MidCon or United with respect to the complaint. MidCon and United also understand and agree that the Commission's acceptance of this agreement and issuance of its decision in disposition of Count Two of the complaint do not waive any other rights the Commission may have to seek any other relief from MidCon and United with respect to the acquisition in markets other than those specified in the complaint. Except as provided in paragragh 4 and the first two sentences of this paragraph, 6 MidCon and United do not waive any rights they may have to challenge any Commission action with respect to markets other than those specified in the draft complaint.

7. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify MidCon and United, in which event it will take such action as it may consider appropriate, or issue its decision in disposition of Count Two of the complaint.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to MidCon or United, (1) issue its decision containing the following Order to divest and to cease and desist in disposition of Count Two of the complaint and (2) make information public with respect thereto. When so entered, the Order to divest and to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and without the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to MidCon's and United's addresses as stated in this agreement shall constitute service. MidCon and United waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

9. MidCon and United have read the draft complaint that MidCon and United understand may then be issued by the Commission and the Order contemplated hereby. They understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. MidCon and United further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is hereby ordered that as used in this Order the following definitions shall apply:

(a) "Acquisition" means MidCon's acquisition of shares of the Common Stock of United and the subsequent merger of an affiliate of MidCon into United pursuant to an Agreement and Plan of Reorganization.

(b) "Schedule A Properties" means the assets and businesses listed in Schedule A of this Order.

(c) "MidCon" means MidCon Corp., its subsidiaries, divisions, groups and affiliates controlled by MidCon and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

(d) "United" means United Energy Resources, Inc. as it was constituted prior to the acquisition, including its parents, subsidiaries, divisions, groups and affiliates controlled by MidCon, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

(e) The "New Orleans—Baton Rouge Corridor" means the area within 20 miles of any point along the Mississippi from the most upstream point where the river borders on Baton Rouge, Louisiana to the most downstream point where the river borders on New Orleans, Louisiana.

(f) "Baton Rouge-New Orleans Corridor Pipeline" means a pipeline company other than MidCon that transported for sale by that company in the twelve preceding the date of any proposed acquisition by MidCon a daily average of at least 90 million cubic feet of natural gas to the Baton Rouge-New Orleans Corridor for consumption therein. For the purposes of this definition, the deliveries of any entity acquired by a company during the preceding twelve months shall be deemed to be deliveries of the company for the entire preceding twelve-month period.

II

It is further ordered that:

(A) Within 12 months of the date this Order becomes final, MidCon shall divest, absolutely and in good faith, the Schedule A Properties.

(B) Divestiture of the Schedule A Properties shall be made only to an aquirer or acquirers and only in a manner that receives the prior approval of the Federal Trade Commission. The purpose of the divestiture of the Schedule A Properties is to ensure the continuation of the assets as ongoing, viable enterprises engaged in the same business in which the Properties are presently employed and to remedy the lessening of competition resulting from the Acquisition as alleged in Count Two of the Commission's complaint.

III

It is further ordered that:

(A) If MidCon has not divested the Schedule A Properties within the 12-month period, MidCon shall consent to the appointment of a trustee in any action that the Federal Trade Commission may bring pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission. In the event the court declines to appoint a trustee, MidCon shall consent to the appointment of a trustee by the Commission pursuant to this Order. The appointment of a trustee shall not preclude the Commission from seeking civil penalties and other relief available to it for any failure by MidCon to comply with paragraphs II(B) through VII of this Order.

(B) If a trustee is appointed by a court or the Commission pursuant to Paragraph III(A) of this Order, MidCon shall consent to the following terms and conditions regarding the trustee's duties and responsibilities:

1. The Commission shall select the trustee, subject to Midcon's consent, which shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

2. The trustee shall have the power and authority to divest any Schedule A Properties that have not been divested by MidCon within the time period for divestiture in paragraph II(A). The trustee shall have 18 months from the date of appointment to accomplish the divestiture, which shall be subject to the prior approval of the Commission and, if the trustee was appointed by a court,

subject also to the prior approval of the court. If, however, at the end of the 18-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission or by the court, if the trustee was appointed by a court.

3. The trustee shall have full and complete access to the personnel, books, records, and facilities of any business that the trustee has the duty to divest, and MidCon shall develop such financial or other information relevant to the assets to be divested as such trustee may reasonably request. MidCon shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

4. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with the Order's absolute and unconditional obligation to divest and the purposes of the divestiture as stated in paragraph II(B). If bona fide offers are received by the trustee from more than one prospective purchaser, the Commission shall determine whether to approve each such purchaser, and the trustee shall divest to the purchaser elected by MidCon from among the purchasers approved by the Commission.

5. The trustee shall serve at the cost and expense of MidCon on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall account for all monies and properties derived from the sale and all expenses incurred. After approval by the court or the Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to MidCon and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part of a commission arrangement contingent on the trustee divesting the trust property.

6. Promptly upon appointment of the trustee and subject to the approval of the Commission, MidCon shall, subject to the Commission's prior approval and consistent with provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to cause divestiture.

7. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed for the balance of the 18-month period specified in paragraph III(B)(2) or any extension thereof.

8. The trustee shall report in writing to MidCon and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

(C) MidCon shall maintain the viability and marketability of the Schedule A Properties and shall not cause or permit the destruction, removal or impairment of any assets or businesses to be divested except in the ordinary course of business and except for ordinary wear and tear. MidCon shall use its best efforts to ensure that the Schedule A Properties continue to be ongoing, viable enterprises engaged in the same business in which the Schedule A Properties are presently employed.

IV

It if further ordered that, within sixty (60) days after the date this Order becomes final and every sixty (6)) days thereafter until MidCon has fully complied with the provisions of paragraphs II and III of this Order, MidCon shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with those provisions. MidCon shall include in compliance reports, among other things that are required from time to time, a full description of contacts or negotiations for the divestiture of properties specified in paragraph II of this Order, including the identity of all parties contacted. MidCon also shall include in its compliance reports copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture.

V

It is further ordered that for a period commencing on the date this Order becomes final and continuing for ten (10) years from and after the date this Order becomes final, MidCon shall cease and desist from acquiring, without the prior approval of the Federal Trade Commission, directly or indirectly, through subsidiaries or otherwise, assets used or previously used by (and still suitable for use by), any interest in, or the whole or any substantial part of the stock or share capital of any Baton Rouge—New Orleans Corridor Pipeline; provided, however, that these prohibitions shall not relate to the construction of new facilities or participation in joint ventures in which MidCon or United is a participant on the date of service of this Order.

One year from the date this Order becomes final and annually thereafter MidCon shall file with the Commission a verified written report of its compliance with this paragraph.

VI

It is further ordered that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to MidCon and United made to its principal office, MidCon and United shall permit any duly authorized representives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of MidCon and United relating to any matters contained in this Order; and

B. Upon five days notice to MidCon or United and without restraint or interference from them, to interview officers or employees of MidCon or United who may have counsel present, regarding such matters.

VII

It is further ordered that MidCon shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

Schedule A

1. One hundred percent (100%) of the stock owned by MidCon Corp. in MCN Acadian Gas Pipeline Corp., which in turn holds a partnership interest in Acadian Gas Pipeline System, a Texas general partnership.

2. One hundred percent (100%) of the stock owned by MidCon Corp. in MCN Louisiana Industrial Gas Supply Corp., which in turn holds a partnership interest in Louisiana Industrial Gas Supply System, a Texas general partnership.

3. One hundred percent (100%) of the stock owned by MidCon Corp. in MCN Pontchartrain Natural Gas Corp., which in turn holds a partnership interest in Pontchartrain Natural Gas System, a Texas general partnership.

4. One hundred percent (100%) of the stock owned by MidCon Corp. in MCN Bayou Interstate Pipeline Corp., which in turn holds a partnership interest in Bayou Interstate Pipeline System, a Texas general partnership.

5. One hundred percent (100%) of the stock owned by MidCon Corp. in MCN Calcasieu Gas Gathering Corp., which in turn holds a partnership interest in

Calcasieu Gas Gathering System, a Texas general partnership.

Analysis To Aid Public Comment on Proposed Consent Order

The Federal Trade Commission has accepted for public comment from MidCon Corporation and United Energy Resources, Inc. an agreement containing consent order. This agreement has been placed on the public record for sixty (60) days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's order.

The Commission's investigation in this matter concerned the September, 1985, acquisition by MidCon Corporation ("MidCon") of the stock of United Energy Resources, Inc. ("United"). Both companies own natural gas gathering and transmission pipelines in various parts of the United States. In particular, United owns an extensive gas transmission system serving the populous and highly industrialized corridor between Baton Rouge and New Orleans, Louisiana. MidCon owns 50% of a series of partnerships, including Acadian Gas Pipeline System, that also transport natural gas to users in the Baton Rouge-New Orleans Corridor.

Because the Commission has accepted the consent order for public comment, one count of an administrative complaint issued by the Commission has been withdrawn from adjudication. The other count of the complaint, Count One, will be assigned to an Administrative Law Judge for further proceedings under the Commission's adjudicative rules. The Commission's complaint charges that MidCon's acquisition of United violates Section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

The agreement containing consent order for which public comments are being accepted pertains only to Count Two of the complaint, which alleges that there would be anticompetitive effects from the acquisition in the transportation and sale of natural gas in the Baton Rouge-New Orleans Corridor. The alleged anticompetitive effects include (a) elimination of actual competition between MidCon and United in this market; (b) increased concentration in this market; and (c) the increased likelihood of collusion in this market.

The order accepted for public comment contains provisions requiring divestiture of assets and limitations on acquisitions of additional interests in natural gas pipelines serving the market. If MidCon does not complete the asset divestitures within twelve months of the date the order becomes effective, the Commission would be able to seek a court appointed trustee to complete the divestiture. Under the order, MidCon would have to divest the assets to an acquirer or acquirers approved in advance by the Federal Trade Commission.

For a period of ten (10) years from its effective date, the order would also prohibit MidCon from acquiring, without prior Commission approval, any interest in additional pipelines that sell a substantial volume of natural gas in the Baton Rouge-New Orleans Corridor. Acquisitions of a pipeline company transporting for sale in the market area less than 90 million cubic feet per day (annual average) would not require prior Commission approval.

It is anticipated that the provisions of the order would resolve the competitive problems alleged in Count Two of the complaint. Before the acquisition, both MidCon (through its interest in the Acadian group of partnerships) and United were significant competitors in the market. Because MidCon must approve all material business decisions of the partnerships, Acadian and United are not likely to compete after MidCon merges with United. Based on their gas transportation capacities into the market, the acquisition would have resulted in a substantial increase of concentration in an already concentrated market. The divestiture contemplated by the agreement containing consent order would maintain Acadian Gas Pipeline System (and related entities) as an independent competitor in the market and would eliminate the increase in concentration that would otherwise result from the acquisition. Thus, the proposed divestiture should alleviate any possible adverse impact on consumers in the Baton Rouge-New Orleans Corridor market.

The purpose of this analysis is to invite public comment. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify its terms in any way.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-24761 Filed 10-16-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY
Customs Service

19 CFR Part 101

Proposed Customs Regulations Amendment Relating to the Customs Field Organization; Chicago, IL

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by establishing a new Customs port of entry, on a 2-year trial basis, to be known as Davenport-Rock Island-Moline, in the Chicago, Illinois, Customs district. The change is being proposed as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before December 16, 1985.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C., 20229.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Regulations and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

The Quad-City Development Group filed an application with Customs requesting the establishment of a new Customs port of entry at Davenport, Iowa, and Rock Island and Moline, Illinois. A review of that application has confirmed that the proposed port meets the minimum Customs criteria for establishing ports of entry.

Customs ports of entry are places (seaports, airports, or land border ports) designated by the Secretary of the Treasury where Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of Customs and related laws. Staffing at ports of entry may range from one to several hundred employees, depending on the volume of business. However, most new ports of entry are staffed by at least a port director, one or more inspectors, and a secretary.

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other

change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

The limits of the propqsed port of entry of Davenport-Rock Island-Moline are as follows: In Rock Island County, Illinois, the Townships of Andalusia, Blackhawk, Rock Island, South Rock Island, Moline, South Moline, Coal Valley, Hampton, Zuma, and Coe; in Henry County, Illinois, the Townships of Colona, Hanna, and Edford; and in Scott County, Iowa, the Townships of Buffalo, Blue Grass, Hickory Grove, Sheridan, Lincoln, LeClaire, Pleasant Valley, Bettendorf, and that area of the City of Davenport enclosed within the present limits of these townships.

The basis upon which Customs is recommending establishing a port of entry at Davenport-Rock Island-Moline, on a 2-year trial basis, is the proposed port's commitment to handle a sufficient amount of imported merchandise to meet minimum port of entry workload standards. These standards, published as a General Notice in the **Federal Register** on March 9, 1982 (47 FR 10137), list 2,500 consumption entries per year as the minimum, potential customs workload for establishment of a port of entry. The proposed port area is committing to 3,738 consumption entries per year, approximately 150% of the 2,500 minimum required.

Customs is not certain at this time if the major importers in the proposed port area will choose to incur the extra expense of importing their merchandise by in-bond shipments to the proposed port area, rather than to continue the simpler and less expensive clearance of the merchandise at the first port of arrival at the U.S.-Canadian border or elsewhere. However, the recommended 2-year trial period for the proposed port should provide sufficient time for the port to establish itself and attract business. At the end of the 2-year period, the practicality of maintaining a port of entry at Davenport-Rock Island-Moline will be reevaluated in light of the actual Customs workload.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this proposal relates to the organization of Customs it is not a regulation or rule subject to E.O. 12291.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act ("Act") relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this proposal because it will not have a significant economic impact on a substantial number of small entities.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although the proposal may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Proposed Amendment to the Regulations

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), will be amended accordingly.

Authority

This amendment is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Exectuvie Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: October 2, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–24799 Filed 10–16–85; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 101

PROPOSED CUSTOMS REGULATIONS AMENDMENT RELATING TO THE CUSTOMS FIELD ORGANIZATION—ROBERTS LANDING, MI

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking; proposed closing of Customs station.

SUMMARY: This document proposes to close the Roberts Landing, Michigan, Customs station. Given the small volume of traffic crossing the Canadian-U.S. Border at this point, and its proximity to other Customs stations, we believe the closure is warranted and in the public interest. This proposed change would enable Customs and the Immigration and Naturalization Service to obtain more efficient use of its personnel, facilities, and resources, as well as realize a substantial annual savings.

DATE: Comments must be received on or before December 16, 1985.

ADDRESS: Comments (preferably in triplicate) should be addressed to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Bernie Harris, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry and stations are locations where Customs officers

are placed for the purpose of accepting the entry of merchandise, collecting duties, examining baggage, clearing passengers, and enforcing the various provisions of the customs laws and other laws.

The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry or clearance of vessels; and

(2) Except as otherwise provided by the Customs Regulations, the expenses (including any per diem allowed in lieu of subsistence), but not the salaries of its officers or employees, for service rendered in connection with the entry or delivery of merchandise.

As part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to importers, carriers, and the public, it is proposed to amend § 101.4(c), Customs Regulations (19 CFR 101.4(c)), by deleting Roberts Landing, Michigan, from the list of designated Customs stations.

The Roberts Landing Customs station, located in the Detroit, Michigan, Customs district is one of three auto ferry stations on the St. Clair River between the Customs ports of Port Huron and Detroit. Roberts Landing is a river crossing only; there is no town or village on the U.S. side of the river. Customs has determined that it is not cost-effective to maintain this station in view of the following factors: Its traffic is almost exclusively non-commercial; the ferry boat at the landing is too small for any vehicle larger than a medium size camper; the station is closed each year for a period of from 2 weeks to 4 months due to various reasons (vessel repairs, weather, river ice, etc.); the close proximity of the other two ferry stations on the St. Clair River (Algonac, which is 3 miles south, and Marine City, which is 5 miles north) would cause little inconvenience to diverted traffic and these two stations could easily handle any overflow without incurring any increase in their operating costs. Roberts Landing is currently staffed by 1 permanent, full-time Customs inspector. The Immigration and Naturalization Service has decided not to fill their vacant Inspector position located there. Closing Roberts Landing would enable Customs to realize a savings of over $100,000 annually.

If the proposed change is adopted, the list of Customs districts, stations, and ports of entry having supervision in § 101.4(c) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This amendment is proposed pursuant to 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965.

Lists of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Executive Order 12291

Because the proposed amendment relates to the organization of Customs it is not a regulation or rule subject to E.O. 12291, pursuant to section 1(a)(3) of that E.O.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*), it is hereby certified that, if promulgated, the proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, this proposal is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: October 2, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-24798 Filed 10-16-85; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 754

[OPTS-62045; TSH-FRL 2886-4]

Methylene Chloride; Initiation of Regulatory Investigation

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Advance Notice of Proposed Rulemaking (ANPR).

SUMMARY: This Notice announces that EPA intends to conduct, in consultation with other Federal agencies, a comprehensive and integrated regulatory investigation of methylene chloride (also known as dichloromethane, DCM). The objective of the regulatory investigation is to determine whether or not methylene chloride presents an unreasonable risk to human health or the environment and to determine if regulatory controls are needed to eliminate or reduce exposures to methylene chloride. The agency invites submission of data to help in its assessment.

The Agency announced in the Federal Register of May 14, 1985 (50 FR 20126) its decision to initiate a priority review under the Toxic Substances Control Act (TSCA) section 4(f) for risks of human cancer from certain exposures to methylene chloride.

With issuance of this Notice, EPA is initiating appropriate action as required by section 4(f) of TSCA. The investigation not only includes the section 4(f) exposure categories, but has also been expanded to include all other exposures. The Agency is exploring regulatory alternatives under TSCA, the Clean Air Act (CAA), the Safe Drinking Water Act (SDWA), the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and other applicable statutes administered by EPA. EPA will also consider, in cooperation with other agencies, the applicability of statutes administered by other agencies to prevent or reduce risks of exposures to methylene chloride.

DATE: All comments must be received by December 16, 1985.

ADDRESS: Since some comments may contain Confidential Business Information (CBI), all comments should be sent in triplicate to: Document Control Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-209, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number (OPTS-62045). Comments received on this Advance

Notice of Proposed Rulemaking, except those containing CBI, will be available for review and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. TSCA Section 4(f) Statutory Requirements and Findings

The Agency announced its decision under section 4(f) of the Toxic Substances Control Act to initiate a priority review of methylene chloride (50 FR 20126). Section 4(f) is triggered when the Administrator finds there is a reasonable basis to conclude that a chemical substance presents, or may present, a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects. In the section 4(f) Analysis Document (Ref. 1), the Agency concluded that under EPA's Interim Guidelines for Assessment of Cancer Risk, as published in the **Federal Register** of November 23, 1984 (49 FR 46294), methylene chloride should be considered a probable human carcinogen (Group B2). Section 4(f) requires that the Administrator, within a 180-day period beginning on the date of receipt of data on which a section 4(f) decision is based initiate appropriate action under TSCA section 5, 6, or 7 to prevent or reduce to a sufficient extent the risk posed, or announce in the **Federal Register** a finding that such risk is not unreasonable. The National Toxicology Program (NTP) bioassay data and the exposure data on which the 4(f) decision was based were received by the Agency on April 19, 1985. This Notice announces the Agency's comprehensive regulatory investigation of methylene chloride, and initiates appropriate action as required under TSCA section 4(f).

Comments received in response to the TSCA section 4(f) notice (50 FR 20126) are being reviewed, and all available information will be considered before any regulatory action is proposed. Preliminary analyses of the comments do not provide a basis for altering the risk estimates which supported the 4(f) determination.

II. Risks From Methylene Chloride

A. General Information

Methylene chloride is a colorless volatile liquid with a vapor pressure of 340 mm Hg 20 °C. It has a low flammability potential and is used as a flame suppressant in certain solvent mixtures. Methylene chloride has extensive oil/fat solubility and is slightly soluble in water (about 1 percent at 20 °C).

Mehtylene chloride is a high-volume chemical with a reported domestic production volume of approximately 584 million pounds in 1983 (Ref. 2). An additional 44 million pounds were imported in 1983 and approximately 72 million pounds were exported. Domestic consumption estimates range from a low of approximately 482 million pounds (based on reported industry sales plus producer imports less producer exports) to a high of approximately 556 million pounds (based on published estimates of all production plus imports less all exports) (Ref. 2).

Methylene chloride is a member of a family of aliphatic halogenated hydrocarbon solvents with a wide variety of uses. Methylene chloride is used in a variety of consumer and industrial products and in a number of industrial process settings. The two largest uses of methylene chloride are in paint removers, where it serves as an active ingredient or as a co-solvent, and in aerosol products, where it functions as a vapor pressure and flammability depressant, as a solvent, and as a weight additive. Aerosol uses include aerosol automotive products, insect sprays, paints and coatings, and hair sprays. Other major uses of methylene chloride include use in industrial metal degreasing, slabstock polyurethane foam production, photographic film processing, for photoresist stripping of printed circuit boards in the electronics industry, and in several industrial process settings. Industrial processing applications include chemical processing, which includes triacetate fiber extrustion, polycarbonate resin manufacture, and other speciality chemical processing. Industrial process uses also include pharmaceutical processing and food processing applications, including caffeine extraction, spice extraction, and hops extraction.

B. Health Effects

1. *Carcinogenic effects.* The Agency has concluded that under EPA's Interim Cancer Guidelines, methylene chloride should be considered a probable human carcinogen (Group B2). Data provided in a recent NTP bioassay demonstrate that methylene chloride is a carcinogen in two species of laboratory animals, rats and mice, exposed at different dose levels via inhalation (Ref. 3). Methylene chloride induced a dose-dependent, statistically significant increase in liver and lung adenomas and carcinomas in both sexes of mice. It also produced a dose-related, increased incidence of mammary gland fibroadenomas in female rats. In male rats a combined incidence of mammary gland tumors with subcutaneous tissue fibromas was required for statistical significance. The mammary gland effect is therefore considered to be some evidence, rather than clear evidence, of benign neoplasms in male rats. The NTP bioassays have provided evidence of carcinogenicity in rats and mice and data suitable for use in a quantitative assessment of risks to human populations exposed to methylene chloride.

The tumors observed in the NTP bioassay are consistent with the types of tumors observed in several other oncogenicity studies of methylene chloride (Ref. 4). Three studies reported an increase in benign mammary tumors in rats. While the results from these studies were not statistically significant, doses administered were well below the dose administered in the NTP bioassay. For this reason, these studies may not have been sensitive enough to detect statistically significant increases in tumor rates. Further, drinking water studies conducted by the National Coffee Association showed evidence of liver tumors in male mice and female rats, although again, the tumors were not statistically significant.

A review of two epidemiology studies on workers in plants using methylene chloride concluded that these studies were insufficient to assess cancer mortality. Neither study reported an increase in death from cancer. Design limitations such as small populations of workers and insufficient follow-up periods prevented conclusive results.

Additional information which provided supporting evidence for methylene chloride carcinogenic potential comes from a variety of studies. Studies show that methylene chloride is rapidly absorbed by animals and humans via inhalation and distributed to several organ and tissue sites. It is metabolized by two pathways to metabolically active intermediates which are theoretically capable of combining with DNA and other cellular macromolecules. Evidence suggests that at high doses the metabolic pathways of methylene chloride may become saturated. Data are currently

insufficient, however, to assess adequately the effect of saturation of metabolic pathways on methylene chloride carcinogenic potential. Several industry-sponsored metabolism and pharmacokinetic studies are now under way that may clarify some of the questions about the metabolism of methylene chloride. The Agency will take these data into consideration in its assessment of methylene chloride as the studies become available near the end of 1985.

Mutagenicity data indicate that methylene chloride is a mutagen with the potential of inducing gene mutations in exposed human cells.

In conclusion, the available body of information on methylene chloride provides sufficient evidence of carcinogenicity in animals, but the human epidemiological data are considered inconclusive. In the absence of adequate data in humans, EPA regards agents for which there is sufficient evidence of carcinogenicity in animals as probable carcinogens in humans.

2. *Non-carcinogenic effects.* Methylene chloride has been associated with several adverse health effects (in addition to cancer) as reported in the Health Assessment Document for Methylene Chloride (Ref. 4). These include effects on the cardiovascular system, the central nervous system, as well as possible effects on the kidneys and liver. These effects were observed in studies of workers and laboratory animals where the concentrations were considerably higher than would normally be expected in the ambient air, although it is possible that short-term peak exposures could approach these levels. For example, central nervous system effects have been observed in humans, but only at concentrations at or above 200 parts per million (ppm). The type of effect in this case was a decrement in hand-eye coordination when exposures were at 200 ppm for 4 hours (Ref. 4). Kidney, liver or cardiovascular effects either have not been reported in humans or have been reported only at concentrations much higher than would normally be expected from environmental exposures.

When methylene chloride is taken into the body, it is metabolized to carbon monoxide as an end-product via one metabolic pathway. Therefore, methylene chloride exposure can result in effects similar to those from carbon monoxide exposure. Because carbon monoxide is only one of the compounds that result from methylene chloride metabolism, higher concentrations of methylene chloride than carbon monoxide are necessary to produce similar effects. Based on the work of Divencenzo and Kaplan (Ref. 4) it appears that approximately 75 ppm of methylene chloride over 8 hours would be equivalent to protection offered by the current National Ambient Air Quality Standard for carbon monoxide, i.e., 9 ppm averaged over 8 hours. The latter is a value which has been judged by EPA to protect the public health from cardiovascular effects with an adequate margin of safety.

The maximum concentration of methylene chloride reported in the ambient air based on monitoring data in the available literature was less than 1 ppm (24-hour average). The predicted maximum concentration to which anyone living near major sources might be exposed from releases that may be reasonably expected to occur via the ambient air is about 120 ppm averaged over 15 minutes, 94 ppm averaged over one hour, or 66 ppm averaged over 8 hours. Higher values from non-routine, unexpected releases are being studied to refine the estimates, to determine the likelihood of their occurrence and to determine whether they would be a public health concern. The estimated values are based on preliminary dispersion modeling screening studies involving some of the largest sources of methylene chloride air emissions in the country (Ref. 5). With respect to noncarcinogenic effects, it appears that maximum concentrations from routine releases of methylene chloride into the ambient air are not of public health concern. It should be noted that the most sensitive subgroups of the population have not been studied for each of the effects associated with methylene chloride exposure and, therefore, there may not be a large margin of safety. The EPA is continuing its evaluation to determine whether adverse health effects might occur to those who live near large sources of methylene chloride.

Information on the effects of methylene chloride on man and the environment is summarized in a Health Assessment Document (HAD) (EPA 600/8-82-004B) (Ref. 4). The HAD was reviewed by EPA's Science Advisory Board (SAB) at a public meeting on June 7, 1984. An earlier draft was reviewed publicly by the SAB on September 9, 1982. Subsequent to the publication of the HAD, an addendum was prepared and reviewed by the SAB at a public meeting on May 22–23, 1985, and further discussed on June 27, 1985 (Refs. 6 and 7). The SAB is an independent group of nationally recognized scientists formed to provide scientific advice at the request of EPA's Administration. Further information and transcripts of the SAB meeting are available for inspection and copying from: Janet Workcuff, Committee Management Staff (PM-213), Environmental Protection Agency, Rm. 2515, 401, M St., SW., Washington, D.C. 20460, 202-382-5036).

C. Environmental Effects

Environmental effects information is limited. Some of these effects are summarized in a 1980 Criteria Document for fresh water and salt water which was developed for certain halomethanes, including methylene chloride (Ref. 8). In this document, the Agency has collected some information on the toxicity of methylene chloride to aquatic species. These effects, and any other environmental effects identified, will be evaluated as part of the Agency's regulatory investigation.

D. Exposure

There is potential for exposure to methylene chloride from environmental sources, from occupational activities involved with the manufacture and processing applications, and from use of consumer products containing methylene chloride.

1. *Occupational exposure.* The Agency's preliminary assessment of the occupational exposure indicated that a large number of people are exposed to high levels of methylene chloride in the workplace. Estimates of occupational exposure levels were based on data from several sources of information, including reports submitted to EPA under TSCA section 8 (a), (d), and (e); the Occupational Safety and Health Administration (OSHA) Inspection Summary Reports; the National Institute for Occupational Safety and Health (NIOSH) Health Hazard Evaluation Reports (HHEs); the NIOSH National Occupational Hazard Survey (NOHS); and industrial trade association reports. The OSHA and HHE reports provided extensive monitoring data for most of the industrial uses of methylene chloride. Likewise, survey data provided information on the number of workers potentially exposed to methylene chloride within particular industries. Where data were lacking, estimates were made based on individual plant work forces and the total number of plants estimated for the entire industry.

The current OSHA permissible exposure limit (PEL) for methylene chloride is 1750 milligrams/cubic meter (mg/m^3) (500 ppm) for an 8-hr Time Weighted Average (TWA). In the absence of data about exposure level data for certain industry categories, assumptions were made that non-monitored plants controlled exposure to

the OSHA PEL. The Agency's occupational exposure estimates are summarized in Unit IV, Request for Additional Information.

2. *Ambient air exposures.* Ambient air exposures to methylene chloride were estimated by the Office of Toxic Substances (OTS) using atmospheric models to calculate ambient concentrations of methylene chloride. The models took into account a number of factors including source emissions, areas surrounding identified sources, climatological data and population data from the U.S. Census Bureau in order to estimate the concentrations of methylene chloride on a regional level and the exposed populations on a national basis. Emission and location data were provided primarily by industry reports and information submitted to the Agency by the Halogenated Solvents Industry Alliance (Ref. 9). Exposures were modeled for urban and suburban areas containing many diffuse sources of methylene chloride (area sources) and for areas surrounding major industrial source complexes (point sources). The EPA's Office of Air Quality Planning and Standards (OAOPS) emission estimates for certain source categories (e.g., metal degreasing) were based on the density of sources within specific Standard Industrial Classification (SIC) codes in each county in the U.S. The OAOPS has also gathered emission data that are summarized in a source assessment document as part of its regulatory investigation of methylene chloride (Ref. 10). These data are being used to refine ambient air exposure and risk estimates. While the estimated values for ambient air exposures to methylene chloride were generally lower than exposures calculated for the workplace, the populations exposed from releases to ambient air were estimated to be quite large. Thus, it was determined that the release of methylene chloride to ambient air from point and diffuse sources presents a potential for widespread exposure. The Agency estimates of ambient air emissions and exposures are summarized in Unit IV, Request for Additional Information.

3. *Consumer product exposure.* The Agency attempted to calculate exposure from use of consumer products containing methylene chloride. Exposures were estimated using an indoor air model to calculate a methylene chloride concentration associated with the amount of product used, the percentage of methylene chloride in the product and the duration of use. However, many uncertainties were associated with the consumer exposure estimates. The uncertainties stemmed largely from a lack of current data on use patterns, conditions, and, in the case of household products, on product composition. While certain aerosol paints and paint-related products were known to contain high concentrations of methylene chloride, data on the conditions and frequency of use of such products were lacking. The problem of estimating exposure was compounded for household products by a lack of current information on the level of methylene chloride in these products, or confirmation of the presence of methylene chloride in certain products. Although data on exposure to methylene chloride in consumer products were considered inadequate to determine whether there may be significant risk for purposes of the TSCA section 4(f) analysis, EPA concluded this potential exposure source warrants further investigation.

Subsequent to the EPA analysis, the Consumer Product Safety Commission (CPSC) received data from a study which simulated consumer exposure to paint products in a room-size environmental chamber. For example, for paint strippers, breathing zone exposures of 1000 ppm to 3000 ppm methylene chloride were recorded. (These levels are comparable to the concentrations administered in the NTP inhalation bioassay.) The Consumer Product Safety Commission staff has requested Commission direction to begin full participation in the development of a voluntary standard, including consumer information and labeling, to reduce consumer exposure to methylene chloride from paint-related products. The Commission is considering this recommendation. As exposure data become available from EPA studies on other product uses, additional actions may be recommended (Ref. 11).

4. *Exposures from water*—a. *Exposures from drinking water.* Measurements of the levels of methylene chloride in drinking water in the preliminary TSCA section 4(f) analysis were too limited to determine whether this source of exposure may present an unreasonable risk. The available monitoring data may not reflect true environmental concentrations of methylene chloride because of the small number of sites represented and sample contamination problems. The limited data suggest that methylene chloride may be present in drinking water at low levels.

b. *Contamination at hazardous waste sites.* Data from the Office of Solid Waste and Emergency Response (OSWER) indicate that significant exposure to methylene chloride may occur from contamination of groundwater around hazardous waste sites. For example, methylene chloride has been detected at 53 Superfund sites. Groundwater contamination occurred at 36 of these sites and surface water was contaminated at 17 sites. In addition, of the 25 substances most frequently detected at these sites, methylene chloride is ranked 16th. Methylene chloride has been detected in groundwater at concentrations as high as 8.4 ppm. This is consistent with levels of other similar volatile synthetic organic chemicals. Data from the Resource Conservation and Recovery Act (RCRA) groundwater monitoring program also indicate that groundwater near numerous industrial sites has been contaminated with methylene chloride. (Refs. 12 and 13). The extent of risk of serious drinking water contamination posed by these sites must be addressed on a site-by site basis.

5. *Exposure from pesticides.* The Office of Pesticide Program (OPP) has identified methylene chloride as an inert ingredient in approximately 1,750 different registered pesticidal products. In addition, methylene chloride is an active ingredient in combination with 1 or more other active ingredients in approximately 20 other registered products. The magnitude of human exposure to methylene chloride from this source is not known, but will be assessed in the Agency's regulatory investigation.

E. Risk Estimates

The Agency believes that estimates of cancer risks associated with occupational and ambient air exposures were sufficient to trigger TSCA section 4(f). Because of uncertainties associated with estimates of consumer and drinking water exposures, the Agency was unable to estimate risks from these exposure sources.

Subsequent to the TSCA 4(f) decision, the Consumer Product Safety Commission (CPSC) staff estimated that reasonably foreseeable consumer uses of methylene chloride-containing paint strippers would result in a range of individual lifetime cancer risks from 1 in 10,000 to as high as 3 in 1,000. Similarly, for aerosol spray painting operations, individual lifetime cancer risks were estimated by CPSC staff to range from 13 in a million to as high as 170 in a million. (Ref. 11)

Lifetime risks of cancer were estimated for the section 4(f) designated categories (occupational and ambient air exposures) from the linearized upper

bound of a dose-response curve fitted to the NTP inhalation bioassay. Dose-response curves were derived from one-hit and multi-stage linearized models and were based on the combined incidences of all statistically evaluated tumors from the most sensitive species and sex, namely the combined incidences of lung and liver tumors in female mice. The 95 percent upper confidence limit estimates of the one-hit model compared closely with estimates from the multi-stage model. In evaluating risk, EPA has assessed the metabolism and pharmacokinetics of methylene chloride to determine whether these processes may affect the chemical's carcinogenic potential. EPA has concluded, however, that the current understanding of these processes is insufficient to warrant modification of the risk analysis.

The excess, upper-bound risks estimated by extrapolation from the animal data indicate high individual risks to workers in all occupational categories. Nearly 1 million workers are estimated to be exposed to individual risks of increased cancer, ranging from 1 in 10 to 1 in 1,000. The Agency therefore concluded that there is potential for significant risk of both serious and, in some populations, widespread harm from occupational exposures to methylene chloride. Specific risk data for each occupational category are contained in the TSCA 4(f) document. (Ref. 1).

The individual risks to populations exposed to methylene chloride in ambient air from industrial source complexes (point sources) and diffuse urban sources (area sources) were estimated to range from 1 in 1,000 (maximum exposed individual risk) to 1 in 1 million (weighted average risks). The populations exposed to these risks were estimated to be quite large and when the risks were considered with the widespread exposures to those risks, a large number of cancer cases were estimated over a 70-year lifetime. Thus, EPA concluded (for purposes of the TSCA section 4(f) analysis), that there is potential for significant risk of widespread harm from ambient air exposures to methylene chloride. Specific risk data for each source category are available in the public docket under the heading, "Methylene Chloride Ambient Releases and Risks" (Ref. 14).

In addition, preliminary analysis under the Clean Air Act (CAA) suggests a finding of significant risk of cancer to persons who live near stationary sources of methylene chloride. These risk estimates are similar to those for substances for which EPA has already announced in the **Federal Register** its intent to list under section 112(b)(1)(A) of the Clean Air Act.

III. EPA's Regulatory Investigation

A. Scope of the Investigation

EPA has decided to initiate a regulatory investigation that will examine all methylene chloride exposure categories (in addition to the two exposure categories designated as TSCA section 4(f) categories) and will consider all pertinent statutes the Agency administers. Sources of methylene chloride are multiple and potentially subject to regulation under several EPA statutes; therefore, only a coordinated approach will result in consistent and non-duplicative regulatory decisions. Thus, this ANPR announces both EPA's initiation of appropriate action under section 6 of TSCA, as required by section 4(f), and an integrated regulatory investigation.

As part of this effort, EPA has convened a workgroup comprised of personnel from responsible offices, including the Office of Toxic Substances and the Office of Air and Radiation. This workgroup is providing technical assistance to, and developing recommendations for Agency review and will, for that purpose, review relevant information obtained by EPA from a variety of sources.

In addition, in order to arrive at an integrated regulatory assessment, EPA is working with an interagency workgroup with representatives from the Consumer Product Safety Commission, the Occupational Safety and Health Administration and the Food and Drug Administration (FDA). Each of these agencies has had significant participation in the development of this ANPR.

Following publication of this ANPR, EPA in conjunction with its interagency workgroup, will assess the information received in response to the ANPR, collect additional information as necessary, weigh alternative courses of action, and provide recommendations to the Administrator on what actions, if any, should be taken. The Agency expects these recommendations to be made in the fall of 1986. EPA will report its progress periodically in the Office of Toxic Substances' publication, "Chemicals-in-Progress Bulletin". Studies and any other information will be submitted, when available, to the public docket established for this Notice under OPTS-62045.

B. Regulatory Alternatives

There are multiple sources of methylene chloride exposures which are potentially subject to regulation under several EPA statutes, as well as under statutes administered by CPSC, OSHA and FDA. Several EPA program offices and other Federal agencies have already begun consideration of methylene chloride. This unit discusses the relevant parts of applicable statutes, and describes work underway and potential regulatory outcomes.

1. *TSCA section 6.* To determine whether a risk is unreasonable, the Agency balances the probability that harm will occur from the chemical substance under consideration against the social and economic costs to society of placing restrictions on the chemical. Specifically, as stated in section 6(c) of TSCA, this conclusion incorporates consideration of:

(a) The effects of the chemical substance on the health of humans and on the environment.

(b) The magnitude of human exposure to the chemical substance.

(c) The benefits of the chemical substance for various uses.

(d) The availability of substitutes for such uses.

(e) The reasonably ascertainable economic consequences of regulation, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

The Agency realizes that no single mathematical formula can be used to calculate unreasonable risk, since the amount and nature of the information will differ in each case. Instead, EPA applies a general approach on a case-by-case basis, weighing quantitative information with qualitative factors, and applying generally accepted principles of responsible public health administration and prudent public policy.

Section 6 of TSCA provides for a number of controls for eliminating or reducing exposures to methylene chloride which may pose an unreasonable risk to health or the environment. Control alterntives include a total or partial ban on manufacture, processing or use of the substance; labeling requirements; and quality control requirements during manufacturing, processing, or industrial use.

If a finding of unreasonable risk of injury to health or the environment is made, the Agency will determine if that unreasonable risk may be prevented or reduced to a sufficient extent by action

taken by another Federal agency under a Federal law not adminstered by EPA. Under these circumstances, EPA must, under section 9(a) of TSCA, refer that risk to the other agency. Similarly, before regulating under TSCA, other authorities administered by EPA will be considered to determine if the risk can be eliminated or reduced to a sufficient extent by actions taken under these authorities. Section 9(b) of TSCA expresses a preference for action under the other authorities unless the Administrator determines that it is in the public interest to act under TSCA.

The Agency is undertaking a number of assessments to determine whether an unreasonable risk exists from various types of methylene chloride exposure. These include exposure analyses, quantitative risk assessment, and assessments of the effectiveness, costs, and economic impacts of various control methods. An extensive assessment of the substitutes for methylene chloride is also underway.

Certain of these assessments are mentioned here so that commenters can provide relevant information:

a. *Consumer exposure analysis.* In order to determine the magnitude of human exposure to methylene chloride in consumer products and to determine whether these exposures present an unreasonable risk, the Agency, in cooperation with the Consumer Product Safety Commission, initiated an investigation to obtain additional product information. In addition, EPA will be assessing exposure to several other solvents which serve as substitutes for methylene chloride. Also the Agency is developing two surveys: a "solvent (chlorocarbon) shelf survey" and a national "household survey."

The "solvent shelf survey" would analyze household cleaning and polishing products, paint, and automotive products purchased in six cities across the country. Laboratory testing and usage determinations will be conducted for the products surveyed. These products will be analyzed for the presence of trichloroethane, trichloroethylene, perchloroethylene, carbon tetrachloride, chlorofluorocarbon 113, as well as for methylene chloride. These substances are frequently used in combination with each other, or interchangeably as substitutes.

The national "household survey" would ask consumers about the incidence and frequency of their use of products, quantities used, and typical protective measures taken. This information may assist EPA in estimating the magnitude of exposue to methylene chloride in consumer products The product categories being considered for the Household Chlorocarbon Survey are shown in Unit IV, Request for Additional Information.

In addition, CPSC is sponsoring studies to estimate exposure to methylene chloride from certain products under laboratory controlled conditions simulating actual use conditions (duration of use, ventilation conditions, etc.).

These data, along with any other information identified during the course of this regulatory investigation, will be used to determine whether exposure to methylene chloride in consumer products presents an unreasonable risk to human health.

b. *Economic analysis.* EPA has developed preliminary estimates of methylene chloride production, imports, exports, and consumption based on published sources and industry contacts (Refs. 2, 15). Where possible, EPA has also developed preliminary estimates of the market share of methylene chloride in each use area, the potential total market size, and the major technical, economic, and regulatory factors affecting trends in methylene chloride consumption levels (Ref. 2). These estimates are currently being refined. Further economic analysis under section 6 of TSCA to support an unreasonable risk determination for methylene chloride will include an extensive analysis of the substitutes for methylene chloride and an analysis of the relative costs and risks of any control alternatives that might be considered.

The substitutes analysis will identify and evaluate current and potential substitutes for methylene chloride in each use. The Agency has identified several chlorocarbon substances that can function as substitutes for methylene chloride in certain uses. These include trichloroethylene, 1,1,1-trichloroethane, perchloroethylene, chlorofluorocarbon 113, and possibly carbon tetrachloride. Based on a cost and performance evaluation of these and other substitutes and the estimated costs of regulatory controls, the substitutes analysis will determine the expected shifts in the level and manner of use of methylene chloride and its substitutes. The Agency will also assess the potential health effects of the substitutes for methylene chloride as well as the changes in exposure resulting from substitution for methylene chloride.

Based on these assessments, the Agency will analyze the relative costs and risks associated with each regulatory alternative. This will include a formal evaluation of the social costs, the risk-cost tradeoffs, and the cost-effectiveness of each alternative. The economic analysis will also identify significant economic impacts and the distribution of impacts among affected parties, incuding impacts on prices, imports and exports, and on small manufactures and processors.

2. *Other statutes*—a. *Clean Air Act.* Section 112(a)(1) of the CAA defines hazardous air pollutants as air pollutants that contribute to mortality, or serious irreversible, or incapacitating reversible, illness. Section 112(b)(1)(A) provides that the Administrator shall maintain

> . . . a list which includes each hazardous air pollutant for which he intends to establish an emissions standard under this section.

In deciding whether to establish such emission standards for carcinogens, EPA considers both public health risk and the feasibility and reasonableness of control techniques. See, for example, the Emission Standards for Benzene published in the Federal Register of June 6, 1984 (49 FR 23498). The ERA's Office of Air and Radiation (OAR) initiated studies to determine whether methylene chloride should be regulated as a hazardous air pollutant under section 112 of the Clean Air Act. Preliminary health risk estimates from ambient exposure to methylene chloride are similar to other compunds that EPA has announced an intent to add to the list of hazardous air pollutants. Additional analyses have been initiated to study possible techniques that might be used to reduce the risks from emissions of methylene chloride into the ambient air. These analyses as well as further assessment of public health risks, from ambient air exposures to methylene chloride will be used to determine if emission controls are necessary.

As part of the Agency's integrated regulatory investigation of methylene chloride, EPA will assess the feasibility of air emission controls, among other possible control options available to the Agency. If the CAA is determined to be an appropriate authority for reducing the public health risk, the next step in the regulatory process would be a notice announcing the addition of methylene chloride to the list of hazardous air pollutants under section 112 of CAA.

b. *Safe Drinking Water Act.* The Office of Drinking Water (ODW) has the following two-step process for establishing standards:

(a) If sufficient information is available, a recommended maximum contaminant level (RMCL) can be established for a contaminant in drinking water. An RMCL is a health goal at which adverse health effects are

not expected and which provides an adequate margin of safety.

(b) A maximum contaminant level (MCL) can then be established. The MCL is an enforceable standard. The MCL must be set as close to the RMCL as feasible, considering the costs associated with controlling the contaminant level. The Agency has delegated enforcement responsibility to States that adopt regulations no less stringent than EPA's regulations.

The Office of Drinking Water (ODW) is in the process of acquiring additional data and preparing a Criteria Document on Methylene Chloride. Regulation of methylene chloride in drinking water is expected to be among the several options considered by the Agency for control of exposures to methylene chloride.

c. *Clean Water Act.* Under authority of sections 301, 304, 306, and 501 of the CWA, the Agency could establish effluent limitations based on the best available technology economically achievable (BAT) and new source performance standards (NSPS) to control the discharge of methylene chloride from existing and new source direct dischargers in industrial source categories using or generating methylene chloride in their manufacturing operations. Under section 307, the Agency could also establish pretreatment standards for new and existing indirect discharging plants to control the discharge of methylene chloride to publicly owned treatment works (POTWs) on an industrial category-by-category basis.

The Agency is assessing the need for effluent limitations guidelines and standards to control the discharge of methylene chloride from certain industrial categories. As part of its ongoing regulatory analysis, the Agency issued a notice which was published in the **Federal Register** of September 9, 1985 (50 FR 36638). The notice seeks comments on the applicability of steam stripping technology for the removal of methylene chloride and other toxic volatile organics from pharmaceutical manufacturing wastewaters.

The Agency has also issued a notice of availability and request for comments regarding effluent limitations guidelines and standards for the organic chemicals, plastics and synthetic fibers manufacturing category, which was published in the **Federal Register** of July 17, 1985 (50 FR 29068). The notice discusses air emissions of methylene chloride and other volatile organics from plant treatment facilities and POTWs, and indicates that emissions of these volatile organics are equivalent to transfer of these pollutants from one medium (water) to another medium (air). The notice also indicates that removal of methylene chloride and other toxic volatiles by in-plant technology, i.e. steam stripping technology, may be an appropriate means of reducing the intermedia transfer of these pollutants.

d. *Federal Insecticide, Fungicide, and Rodenticide Act.* Chemicals which are used as pesticides and subject to regulation under FIFRA are excluded from TSCA jurisdiction (see TSCA section 3(2)(B)(iii)). Therefore, the use of methylene chloride in pesticides was not part of the TSCA section 4(f) analysis. Under FIFRA, the Agency must consider the risks and benefits of particular pesticides and uses in order to take regulatory actions. The Agency has the authority to limit contaminants in pesticide products to levels that will ensure they do not pose the risk of unreasonable adverse effects to man or the environment. Such determinations concerning the "reasonableness" of risks posed by pesticides require full evaluation and balancing of risks and benefits, on a chemical- and use-specific basis.

Methylene chloride was previously registered as an active ingredient in grain fumigants used for remedial treatment of insect infestations in stored grains. However, all grain fumigant products containing methylene chloride have been cancelled because these products also contained ethylene dibromide (EDB). In February 1984, following the detection of EDB residues in consumer grain products, EPA issued a suspension order stopping the sale, distribution, and use of grain fumigants containing EDB as a sole or active ingredient, and all of these fumigant products were subsequently cancelled.

In addition to its previous use in grain fumigants, methylene chloride has been used in grain protectant products registered for the preventive treatment of stored grains. In January 1985, EPA's Office of Pesticide Programs (OPP) issued Data Call-In notices requiring the submission of residue and related data on grain protectant products containing methylene chloride (Ref. 16). These notices were sent to the two registrants of three grain protectant products. One of these products has been suspended because the registrant failed to respond to EPA's Data Call-In notice. The other registrant requested an exemption from the data requirements. The Agency has denied this request. The registrant must therefore provide the requisite data as a condition of continued registration. If the company elects not to provide the data, it may request voluntary cancellation, or EPA will suspend the registrant's product registrations.

There are also approximately 14 registered products containing methylene chloride as an active ingredient in combination with two or more other active ingredients. These multiple active ingredient products are used primarily as insecticides for such uses as wasp sprays, dog chasers, elevator multipurpose sprays, industrial pressurized insect bombs, floral sprays, and for screwworm treatment of livestock.

In addition, there are approximately 1,750 different registered pesticidal products containing methylene chloride as an inert ingredient. Methylene chloride functions as a solvent or propellent in these products which cover a variety of herbicides, insecticides, and disinfectant formulations.

OPP is exploring a range of regulatory options for dealing with the health and safety concerns posed by the remaining pesticide products containing methylene chloride. One option is to issue a Data Call-In notice under FIFRA section 3(c)(2)(B) to require registrants to submit data that will answer additional questions regarding the hazards that may result from continued use of methylene chloride.

Upon receipt of the necessary data, OPP may conduct a special review, consisting of an intensive risk-benefit analysis of the remaining uses of methylene chloride to determine whether the criteria for unreasonable adverse effects have been met or exceeded. The special review process requires the Agency to evaluate available scientific data, as well as data on the economic, social and environmental benefits of the use of the pesticide. The Agency then analyzes risk reduction measures and their costs to determine if the pesticide use may be regulated so that the benefits of use exceed the remaining risks. Risk reduction measures may require registrants to amend the terms and conditions of their registrations as appropriate for the uses in question, including restricting the use of the pesticide to certified applicators and persons under their direct supervision, modifying use directions or formulation types, or modifying product labels to provide additional precautionary statements. If an adequate balance between risks and benefits cannot be reached, the registration of the pesticide will be cancelled. Likewise, if the data reveal an imminent hazard, the Administrator may suspend the registration of the pesticide immediately.

Another option, for products containing methylene chloride as an

inert ingredient, is to explore with registrants the possible substitution of a less hazardous solvent or propellant in their pesticide formulations.

The option to be selected will be decided as appropriate in concert with the other information-gathering and regulatory options pursued through the overall work group process. The magnitude or human exposure to methylene chloride in pesticides will be evaluated as part of the integrated Agency-wide assessment of methylene chloride.

e. *Resource Conservation and Recovery Act (RCRA).* The Office of Solid Waste (OSW) is required under the provisions of the Hazardous and Solid Waste Amendments of 1984 to implement a regulatory program restricting continued land disposal of certain hazardous wastes within the time period set by Congress. Among the wastes being considered on an expedited schedule are 27 solvents, including methylene chloride, which are considered hazardous waste when "spent" or discarded. The Agency must make decisions on these wastes by November 8, 1986, or they will be banned from further land disposal unless a variance has been obtained under RCRA section 3004(h).

OSW is considering the development of a health-based threshold for these solvents. In cases where the concentration of hazardous constituents in the waste leachate exceed these regulatory levels, such waste will be banned from further land disposal, unless the waste complies with EPA-established pretreatment standards or it is demonstrated that there will be no migration of the hazardous constituents in the waste from the land disposal unit for as long as the waste remains hazardous.

f. *Occupational Safety and Health Act (OSHAct).* OSHA is authorized by the OSHAct under section 3(8) to enact occupational safety and health standards which are "reasonably necessary or appropriate to provide safe and healthful employment and places of employment." In promulgating standards dealing with toxic substances, the Act requires OSHA under section 6(b)(5) to "set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life."

The current OSHA standard for methylene chloride is a Permissible Exposure Level (PEL) of 1750 mg/m³ (500 ppm) as an 8-hour TWA. This standard was issued in 1972 as a national consensus standard. It was not based on carcinogenic effects. Modifications of existing standards may be made after rulemaking under the authority of section 6(b) of the OSHAct. The United Auto Workers recently petitioned OSHA to issue an emergency temporary standard for methylene chloride until such time as a permanent standard can be issued.

g. *Consumer Product Safety Act (CPSAct).* The Consumer Product Safety Commission has the authority to regulate methylene chloride in consumer products under the Consumer Product Safety Act, and/or under the Federal Hazardous Substances Act (FHSA). Under authority of the CPSAct and FHSA, the Commission issues and enforces mandatory product safety standards and labeling rules, helps industry develop voluntary safety standards, and bans unsafe products when safety standards are not feasible. It also monitors recalls of defective products, informs and educates consumers about product hazards, conducts research and develops test methods, collects and publishes injury and hazard data, and promotes uniform product regulations by governmental units.

h. *Federal Food, Drug and Cosmetic Act (FFDCA).* The FDA currently is assessing the need to regulate the use of methylene chloride in cosmetic products (e.g., hair sprays) and as an indirect food additive in spice extraction and in decaffeination of coffee. Certain pharmaceutical applications are also subject to regulation under the FDCA.

C. Conclusion

At the competion of this regulatory investigation, the Administrator will carefully weigh all alternative regulatory strategies and take appropriate action to control sources and reduce risk from methylene chloride under available statutory authorities. Action could be taken under one or more statutes administered by EPA. Additionally, it is hoped that other agencies participating in this interagency effort will take appropriate actions, if warranted, under their authorities.

In examining the sufficiency of potential controls under various statutes, the Agency will be looking at the problem of intermedia transfer. The Agency is also looking at the effects of the regulation of methylene chloride on the use of several chlorinated solvents that could be substituted for methylene chloride. It will be considering the potential health and environmental effects of increased use of these chemicals in its decision-making process for methylene chloride. These effects include both the potential direct health and environmental effects of the substitutes and the indirect effects of several of the substitutes through modification of the stratospheric ozone layer.

IV. Request for Additional Information

During the Agency's preliminary review of methylene chloride for the TSCA section 4(f) analysis, a number of data gaps and uncertainties were identified. Where data were lacking or limited, it was necessary to make a number of assumptions in order to estimate exposures and release of methylene chloride. For example, where there was a lack of workplace monitoring data, it was assumed that exposure levels were controlled to the OSHA 8-hour TWA PEL of 1750 mg/m³ (500 ppm).

Estimates of occupational and ambient air exposures are summarized in this Unit. The Agency seeks comments on these estimates and information on other exposure sources not listed. Exposure data gaps are also summarized in this Unit. The Agency therefore request any additional information that may be available in order to develop a more accurate assessment of exposures to methylene chloride. In addition, as part of its regulatory investigation, the Agency requests technical and economic feasibility information on substitutes (both direct chemical and functional substitutes) as well as on end product substitutes.

In the review of the Agency's risk assessment for methylene chloride, several scientific issues were identified. In particular, questions were raised about the role of metabolism and pharmacokinetics in determining target site doses (Refs. 6,7). In response to the TSCA Section 4(f) finding, industry has submitted additional information, including a pharmacokinetic model and follow-up epidemiological data. All data that were submitted have been reviewed and incorporated into a revised Addendum to the EPA Hazard Assessment Document for Methylene Chloride (Ref. 7).

The Agency requests any additional information that would further clarify the issues identified and would assist in refining the methylene chloride risk assessment.

The Agency is also seeking additional information about adverse health effects that were not reviewed in EPA's Health Assessment Document (HAD) for methylene chloride (Ref. 5). Specifically,

the Agency is seeking information about adverse effects from low-level exposures, as well as additional information about acute and chronic effects associated with exposures to methylene chloride. Since there is a potential for oral and dermal exposure to methylene chloride (as well as via the inhalation route) the Agency also requests submission of any studies not previously reviewed in the HAD that would be useful in assessing health effects via these exposure routes. The Agency also requests any biological monitoring data that relate to dermal absorption and excretion, rate of absorption, whether absorption is potentiated in the presence of other solvents, or any other related information.

As indicated in Unit III in this ANPR, EPA is developing a household chlorocarbon survey for the use of methylene chloride and five other chlorinated solvents (trichloroethane, trichloroethylene, perchloroethylene, carbon tetrachloride, and chlorofluorocarbon 113) in consumer products. The products under consideration for the survey are summarized in this unit. The Agency seeks comments from consumers, product formulators or other knowledgeable persons as to the completeness of the product categories, particularly for products where methylene chloride content is uncertain.

The Agency developed a detailed list of questions related to health and environmental effects, exposures, uses, substitutes, and market economics. These detailed questions are included in the public docket established for this notice, and are available upon request from the TSCA Assistance Office (note address in Summary). EPA invites the public to submit whatever information may be available which responds to these specific questions.

TABLE 1.—SUMMARY OF OCCUPATIONAL EXPOSURE TO METHYLENE CHLORIDE (PEI ASSOCIATES, 1985)

Industry category	Job category	Estimated No. of workers	8-hr TWA exposure (mg/m³)[1]	Inhalation[2] exposure (mg/day)
Methylene Chloride Mfg	Production Worker	[3]1,200	1,750	17,500
Aerosol Packing	Packer	[3]896	317	3,172
Aerosol Use	Spray Painter	14,296	46	462
	Mold Release	25,972	80	798
	Other Worker	50,343	28	277
Paint Remover Formulation	Production Filling	1,280	1,750	17,500
Paint Remover Use	Paint Stripper	[3]7,680	57	572
	Water Wash	[3]25,600	67	673
	Other Worker	[3]3,840	192	1,930
Polyurethane Foam Blowing	Foam Operator	[3]405	51	513
	Other Worker	[3]162	97	974
Metal Degreasing	Degreaser	227,848	46	464
Solvent Recovery	Solvent Reclaimer	[3]170	13	128
Pharmaceutical Solvent	Production Worker	19,046	141	1,406
Triacetate Extrusion	Extrusion	340	1,479	14,795
	Finish	460	187	1,869
	Other Worker	120	1,036	10,363
Photographic Applications	Splicer	1,376	3	29
Solvent for Plastics	Gluer	1,514	437	4,368
	Assembler	984	197	1,966
	Other Worker	8,022	21	211
Adhesives Use	Laminator	1,366	30	295
	Gluer	280	6	57
	Other Worker	901	15	153
Printing	Printer	43,931	17	173
	Platemaker	15,911	32	324
	Other Worker	27,531	56	561
Production Solvent	Compounder	15,041	44	439
	Other Worker	1,531	8	82
Electronic	Assembler	10,399	14	135
	Other Worker	11,267	29	292
Cleaning Solvent	Maintenance	49,884	30	304
	Painter	1,831	32	317
	Machine Operator	79,951	30	297
	Assembler	22,252	1,000	9,999
Polycarbonate resin Production	Production Worker	1,200	1,750	17,500
Not Classified [4]	Other Worker	342,064	59	592
		1,016,894		

[1] Values are based on the geometric mean of the monitoring samples reported for a given job category.
[2] Values are based on the assumption that the breathing rate for workers is 10 m³/day.
[3] Estimated number of workers based on average number of workers per plant multiplied by the total number of plants identified.
[4] The "not classified" category represents data obtained from surveys of many types of industrial plants which are not well defined.
From: "Analysis of the Applicability of TSCA Section 4(f) To: Methylene Chloride", May 1985.

TABLE 2.—METHYLENE CHLORIDE AMBIENT RELEASES AND EXPOSURES

Source category	Number of sites	Emissions (MT/YR)	Population exposure (millions)
# Paint removal	millions	62,000	167-227
# Aerosol Use	millions	52,900	167-227
# Metal degreasing	thousands	17,700	167-227
# Miscellaneous Uses	unknown	12,100	227
+ Foam blowing	84-87	14,200	89-192
# Photo processing	unknown	8,100	227
# Electronics	hundreds	6,800	227
+ Pharmaceuticals	67	5,700	117
# Food processing	unknown	3,300	227
+ Pesticide Production	31	2,700	135
+ Misc chemical plants	11	9,500	20
+ Triacetate fiber	1		0.8

TABLE 2.—METHYLENE CHLORIDE AMBIENT RELEASES AND EXPOSURES—Continued

Source category	Number of sites	Emissions (MT/YR)	Population exposure (millions)
+ Polycarbonate resin	2		1.9
+ DCM production	6	700	1.9–2.4
– Aerosol packing	112	69	
– Paint remover formulation	128	63	
– Solvent reclamation	85	9	

+ = modeled as point sources; # = modeled as area sources; – = not modeled.

TABLE 3.—METHYLENE CHLORIDE AMBIENT AND OCCUPATIONAL EXPOSURE DATA GAPS

Use category	Estimated use (MT/YR)	Environmental releases (MT/YR)	Number of sites	Site location	Site emissions quantity and rate	Site character	Number of workers	Worker activities	Workplace levels	Personal protect equip	Engineering controls
DCM Manufacturing	265,437	+	+	+	+	+	0	0	–	–	–
Paint Removers	62,099										
Paint remover formulation	62,099	0	0	–	–	–	0	0	0	–	–
Industrial paint remover	–	–	–	–	–	–	0	0	0	–	–
Consumer use	–	–	NA	0	–	–	NA	NA	NA	NA	NA
Aerosols	52,995										
Aerosol packing	52,995	0	0	–	–	–	0	0	0	–	–
Industrial aerosol use	–	–	–	–	–	–	0	0	0	–	–
Consumer use	–	–	NA	0	–	–	NA	NA	NA	NA	NA
Metal Cleaning (degreasing)	21,385										
Open Top & Conveyorized Vapor	7,057	0	0	0	0	0	0	0	0	–	–
Cold Cleaning	14,326	0	0	0	0	0	0	0	0	–	–
Foam Blowing											
Polyurethane	14,186	0	0	0	0	0	0	0	0	–	–
Chemical Processing Miscellaneous Plants:											
Triacetate Fiber Extrusion	2,318	+	+	+	+	+	0	0	0	–	–
Polycarbonate resin manuf	1,364	+	+	+	+	+	0	0	0	–	–
Ultrahigh strength polyethylene film	–	–	–	–	–	–	–	–	–	–	–
Bisphenol A purification	–	–	–	–	–	–	–	–	–	–	–
Other	–	–	–	–	–	–	–	–	–	–	–
Specialty chems/chem processing*	10,000	–	–	–	–	–	–	–	–	–	–
Pharmaceutical Use	13,271										
Extraction solvent	–	0	0	0	0	0	0	0	0	–	–
Carrying solvent	–	0	0	–	–	–	0	0	0	–	–
Reaction medium	–	0	0	–	–	–	0	0	0	–	–
Electronics (photoresist)	11,860	0	0	–	–	–	0	0	0	–	–
Photographic Use	8,071	–	–	–	–	–	0	0	–	–	–
Food processing	3,338										
Caffeine extraction	680–3,175	–	–	–	–	–	–	–	–	–	–
Oleyolspice extraction	9–14	–	–	–	–	–	–	–	–	–	–
Hops extraction	9–18	–	–	–	–	–	–	–	–	–	–
Pesticides	2,707										
Pesticides production solvent	–	0	0	0	0	0	–	–	–	–	–
Pesticides formulation	–	–	–	–	–	–	–	–	–	–	–
Miscellaneous Uses	12,168										
Plastics solvent	–	–	–	–	–	–	0	0	0	–	–
Adhesives Component	–	–	–	–	–	–	0	0	0	–	–
Cleaning solvent	–	–	–	–	–	–	0	0	0	–	–
Solvent recovery	4,229	0	0	–	–	–	0	0	0	–	–
Printing	–	–	–	–	–	–	0	0	0	–	–
Not elsewhere classified	–	–	–	–	–	–	0	–	0	–	–

Key to data gap codes: – Little or no data already available to EPA; 0 some data already available to EPA; + Good data already available; *There is probably overlap between this and the miscellaneous plants category.

TABLE 4.—HOUSEHOLD CHLOROCARBON SURVEY

Category 1—Cleaning and Polishing

1. Anti-Static Sprays*
2. Rug and Upholstery Cleaners* (for cloth/leather/suede)
3. Laundry Presoaks/Cleaners
4. Solvent Drain Cleaners
5. Specialized Electronic Cleaners (i.e., stereos, TVs, personal computers)
6. Spot and Stain Removers
7. Spray Shoe Polish
8. Water Repellants/Protectors (for cloth/leather/suede)
9. Aerosol Furniture Polish/Dusting Aid*
10. Air Deodorizers*
11. Dip Dye Metal Cleaners*
12. Electric Shaver Cleaners*
13. Floor Wax*
14. Liquid Wax Stripper/Wood Cleaners*
15. Non-aerosol Furniture Wax/Polish/Dusting Aid*
16. Oven Cleaners*

TABLE 4.—HOUSEHOLD CHLOROCARBON SURVEY—Continued

17. Specialized Aerosol Cleaners* (for marble/vinyl/cabinets/etc.)
18. Aerosol Bathroom Cleaners*
19. Aerosol Window and Glass Cleaners*
20. Spray Starch*

Category 2—Painting and Lubricating Products

1. Aerosol Spray Paints/Primers/Stains/Varnishes
2. Caulking
3. Silicone Lubricants
4. Other Lubricants/Penetrating Oils/Spray Looseners
5. Paint Removers/Strippers
6. Paint Thinners
7. Paint with Epoxy Formulation (Two-Part System)
8. Primers and Special Primers
9. Protective Coatings and Wood Preservative/Repellents
10. Rust Removers
11. Silicone Lubricants
12. Wallpaper Removers

TABLE 4.—HOUSEHOLD CHLOROCARBON SURVEY—Continued

13. Wallpaper Adhesives
14. Latex Paint*
15. Oil/bolt Looseners*
16. Oil Paint*

Category 3—Automotive Products

1. Aerosol Spray Paint
2. Automotive Undercoats
3. Battery Terminal Protector
4. Brake Quieters/Cleaners
5. Carburetor Cleaners
6. Chrome Polish-Protectors
7. Engine Degreasers
8. Gasket Removers/Adhesives
9. Rug and Upholstery Cleaner*
10. Sealants for Auto Parts
11. Silicone Lubricants
12. Special Primers
13. Spray Adhesives

TABLE 4.—HOUSEHOLD CHLOROCARBON SURVEY—Continued

14. Spray Lubricants
15. Tire Puncture Seal
16. Transmission Cleaner
17. Cleaning Fluids*
18. Rust Removers
19. Starting Fluids*
20. Windshield & Glass Cleaner*
21. Windshield De-Icers*

*Product Categories to be deleted from Survey because assumed not to contain any of the six chlorocarbons.

V. Confidential Business Information

Information submitted as comments to this Notice may be claimed confidential by marking any part or all of that information as "CBI." However, health and safety studies cannot be held confidential except as allowed under section 14(b) of TSCA. Information submitted as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A sanitized copy of any comments containing CBI should be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record

EPA has established a record for this proceeding (docket number OPTS-62045). Nonconfidential information, along with a complete index, is available for inspection in the Office of Toxic Substances Reading Room from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays, Rm. E-107, 401 M St., SW, Washington, D.C., 20460. This record includes basic information considered by the Agency in developing this ANPR. The Agency will supplement the record with additional information as it is received. The public record will include:

1. This notice.
2. All comments on this ANPR.
3. All relevant supporting documents and studies.
4. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of this record.)

VII. References

(1) U.S. EPA. Office of Toxic Substances. Analysis of the Applicability of TSCA Section 4(f) to Methylene Chloride. May 1985.

(2) U.S. EPA. Office of Toxic Substances. Economics and Technology Division. Preliminary Use Analysis for Dichloromethane (Methylene Chloride). 1985.

(3) National Toxicology Program (NTP). NTP Draft Report. Technical Report on the Toxicology and Carcinogenesis Studies of Methylene Chloride (DCM) in F 344/N Rats and B63F1 Mice. NTP-TR-306. National Institutes of Health (NIH) publication #85-2562, USHHS, Public Health Service, NIH. 1985.

(4) U.S. EPA Office of Research and Development. Health Assessment Document for Dichloromethane (Methylene Chloride). Final report. EPA 600/8-82-004F. February 1985.

(5) U.S. EPA. Office of Air Quality Planning and Standards. Memorandum from D. Layland to K. Blanchard. August 1985.

(6) U.S. EPA. Office of Health and Environmental Assessment. Addendum to the Health Assessment Document for Dichloromethane (Methylene Chloride): Updated Carcinogen Assessment of Dichloromethane (Methylene Chloride). EPA 600/8-82-004FF. August 1985.

(7) U.S. EPA. Office of Research and Development. Cancer Assessment Group. Memorandum: H. Spitzer, to the Science Advisory Board. Revision of Pharmacokinetic/Metabolism Section of the Addendum to the Health Assessment Document for Dichloromethane (Methylene Chloride). June 1985.

(8) U.S. EPA. Office of Water Regulations and Standards. Criteria and Standards Division. Ambient Water Quality Criteria for Halomethanes. October 1980.

(9) Halogenated Solvents Industry Alliance. Reports on Methylene Chloride Emissions to EPA Office of Air Quality Planning and Standards. March, April, June, 1985.

(10) U.S. EPA. Office of Air Quality Planning and Standards. Emission Standards and Engineering Division. Source Assessment of Methylene Chloride Emissions. Final Report. August 1985.

(11) U.S. Consumer Product Safety Commission. Briefing Package on Methylene Chloride. June 1985.

(12) U.S. EPA. Office of Water Regulations and Standards, Criteria and Standards Division. Environmental Profiles and Hazard Indices for Constituents of Municipal Sludge: Methylene Chloride. June 1985.

(13) U.S. EPA. Office of Water Regulations and Standards, Criteria and Standards Division. Summary of Environmental Profiles and Hazard Indices for Constituents of Municipal Sludge: Methods and Results. June 1985.

(14) U.S. EPA. Office of Air Quality Planning and Standards, and Office of Pesticides and Toxic Substances. Table, "Methylene Chloride Ambient Releases and Risks". July 1985.

(15) U.S. EPA. Office of Pesticides and Toxic Substances. Economics and Technology Division. Memo from H. Call to Methylene Chloride Workgroup. July 15, 1985.

(16) U.S. EPA. Office of Pesticides and Toxic Substances. FIFRA Data Call-In Notice. Use of Methylene Chloride as a Grain Protectant. 1985.

Authority: 15 U.S.C. 2605.

List of Subjects in 40 CFR Part 754

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Solvents.

Dated: October 8, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-24755 Filed 10-16-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-299; FCC 85-543]

Distress Sale Policy for Broadcast Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: On its own initiative, the Commission commenced an inquiry into whether its distress sale policy should be expanded. At present, licensees may only elect the distress sale option prior to the commencement of a revocation or renewal hearing and may sell at no more than 75 percent of the full market value. The proposed extension of that policy would allow licensees to undertake a distress sale after the commencement of a hearing but before the parties file preliminary findings of fact and conclusions of law and to sell at a price of no more than 50 percent of fair market value. Through its proposal, the Commission intends to refine an innovative approach to promoting minority ownership of broadcast stations, and thereby to contribute to the diversification of programming.

DATES: Comments must be filed on or before November 14, 1985 and reply comments on or before November 29, 1985.

ADDRESS: Mass Media Bureau, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Belford V. Lawson III (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television and radio broadcast.

Notice of Inquiry

In the matter of Distress Sale Policy for Broadcast Licensees; MM Docket No. 85-299, FCC 85-543.

Adopted: October 8, 1985.
Released: October 8, 1985.
By the Commission.

1. A broadcast licensee whose license has been designated for hearing ordinarily is prohibited from selling, assigning or otherwise disposing of its interest, until the issues raised in the

designation order have been resolved in the licensee's favor.[1] An exception to this procedure is the Commission's distress sale policy, which is intended to promote minority ownership in broadcasting. This inquiry will explore the desirability of expanding the availability of the distress sale option afforded by our existing policy.

Background

2. The Commission first adopted a distress sale policy in 1978.[2] This policy, as currently applied, permits licensees whose licenses have been designated for revocation hearing or whose renewal applications have been designated for hearing on basic qualification issues to transfer or assign their licenses at a distress sale price to applicants with a significant minority ownership interest, assuming the proposed assignee or transferee is otherwise qualified to hold a broadcast license.[3] A distress sale must be effected prior to the beginning of the hearing and must be at a price not exceeding 75 percent of the station's fair market value as of the date on which the hearing was designated.[4] Further, the ownership interest held by minorities in the proposed transferee or assignee must exceed 50 percent or constitute a controlling interest.[5]

Discussion

3. While our distress sale policy has proved helpful in facilitating minority ownership of broadcast stations,[6] we believe that extending the availability of the distress sale option may further enhance the effectiveness of the policy. Accordingly, we are proposing to permit distress sales of broadcast properties subsequent to the beginning of a revocation or renewal hearing, provided the transaction is entered into prior to the filing of proposed findings of fact and conclusions of law with the Administrative Law Judge. We also propose, however, to limit the distress price in such circumstances to no more than 50 percent of the station's fair market value as of the date on which the hearing was designated. In all other respects, including the level of minority participation required in the transferee or assignee, our policy would remain unchanged.[7]

4. In formulating the above proposal, we have carefully weighed our interests in increasing minority participation in broadcasting, reducing the burdens associated with evidentiary hearings, and preserving viable regulatory deterrents to licensee misconduct. We believe our proposal represents an appropriate balancing of these concerns. In this regard, we note that the substantial additional cost to sellers of waiting until after the commencement of a hearing to effect a distress sale—in the form of both a 25 percent decrease in the maximum recoverable price as well as the increased litigation expenses associated with continuing the hearing—should prevent potential sellers from unwarrantedly deferring election of the distress sale approach. We do not believe, therefore, that our proposal poses any subsequent risk of delaying those sales to minorities which, under current policy, would necessarily take place prior to commencement of the hearing. Similarly, we believe the additional cost to sellers of waiting until after the commencement of a hearing to effect a distress sale renders unlikely the possibility that our proposed extension of the distress sale policy would in any significant way reduce the Commission's capacity to deter licensee misconduct. At the same time, permitting a later distress sale election could facilitate sales to minorities that otherwise might have been precluded. Finally, we note that allowing a later distress sale option will be beneficial in terms of administrative burdens because proceedings that now require full adjudicatory decision making by the Commission could be resolved prior to preparation by the Administrative Law Judge of an Initial Decision.

5. We invite comments on the above proposal and on the policy considerations discussed herein in connection with it as well as on any other matters which might contribute to an informed policy determination in this proceeding. We specifically request commenters to consider whether the 50 percent sales price limitation proposed in connection with the extension of the distress sale policy would provide new opportunities to minority groups with limited financial resources to acquire stations which would otherwise be priced out of their reach. Finally, we invite comment on what alternative to the filing of proposed findings should be used to "cut-off" election of the distress sale option in the event an ongoing hearing does not run its full course, as, for example, where a party seeks summary judgment.

Procedural Matters

6. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before November 14, 1985, and reply comments on or before November 29, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Policy Statement.

7. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All

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[1] *See, e.g., Northwestern Indiana Broadcasting Corp.*, 65 FCC 2d 66, 70 (1977).

[2] *Statement of Policy on Minority Ownership of Broadcasting Facilities, ("1978 Policy Statement")* 68 FCC 2d 979 (1978).

[3] On December 23, 1976, the Congressional Black Caucus ("CBC") filed a petition (RM-2811) requesting that the Commission issue a notice of inquiry to formulate a new policy permitting, in any renewal or revocation case, the assignment of a license, at a substantially lower sales price, to a group comprised of at least 50 percent racial minorities. Since the action taken in the *1978 Policy Statement* effectively granted CBC's proposal, we are herein dimissing the petition as moot.

[4] *Lee Broadcasting Corp.*, 76 FCC 2d 462 (1980).

[5] *Grayson Enterprises, Inc.*, 77 FCC 2d 156 (1980). Somewhat different minority participation requirements apply where the transferee or assignee is a limited partnership, but the same concern for minority control is manifest. *See Policy Statement and Notice of Proposed Rule Making* in Gen. Docket No. 82-797, 92 FCC 2d 849 (1983).

[6] Since our adoption of the policy in 1978, there have been 32 broadcast license transfers or assignments by distress sale.

[7] We note that our proposal in this proceeding is quite similar to one advanced by the National Association of Black Owned Broadcasters ("NABOB") in a petition for rule making filed on October 16, 1981. Therein NABOB also proposed various other rule and policy modifications to encourage minority ownership of broadcast media. Since that time, many of petitioner's proposals, such as relaxing the multiple ownership and trafficking rules, as well as facilitating the approval of large scale mergers, have been adopted or proposed in part or in whole in parallel proceedings. *See Amendment of § 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM and FM Television Broadcast Stations*, 50 FR 4666 (February 1, 1985); *Reexamination of the Commission's Rules and Policies Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities*, 97 FCC 2d 997 (1984); *Amendment of Section 73.3597* (Anti-Trafficking Rule) 50 FR 6944 (February 14, 1985); and, *Notice of Inquiry into Tender Offers and Proxy Contests*, MM Docket No. 85-218, FCC 85-349, released August 29, 1985. Other of petitioner's proposals, such as extending our tax certificate policy to the common carrier sphere and modifying certain capital gains tax provisions, require Congressional action. Finally, petitioner's suggestion that the Commission relax its distress sale policy is essentially proposed in this *Notice*.

documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, D.C. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

8. For purposes of this proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a Notice of Inquiry until the time a public notice is issued stating that substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the metter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously file written comments for the proceeding must prepare a written summary of that presentation. on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.1231 of the Commission's Rules. [8]

9. Accordingly, the Commission adopts this *Notice of Inquiry* pursuant to the authority contained in sections 4, 303 and 403 of the Communications Act of 1934, as amended.

10. It is ordered, That the Petition for Rule Making filed on October 16, 1981, by the National Association of Black Owned Broadcasters, is granted to the extent indicated herein and in all other respects is dimissed.

11. It is further ordered, That the Petition for Rule Making filed by the Congressional Black Caucus on December 23, 1976 (RM-2811) is dismissed as moot.

12. For further information regarding this proceeding, contact Belford Lawson, Mass Media Bureau, (202) 632-7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc 85-24701 Filed 10-16-85; 8:45 am]

BILLING CODE 6712-01-M

[8] *Ex parte* restrictions apply to notices of inquiry where, as here, adoption of a policy statement is contemplated. *See Report and Order* in Gen. Docket No. 78-167, 78 FCC 2d 1384 (1980).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[OST Docket No. 43466, Notice No. 85-14]

Public Availability of Information; Freedom of Information Act Regulations

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking and request for comments.

SUMMARY: The Department of Transportation is proposing to revise its existing regulations contained in 49 CFR Part 7—Public Availability of Information, implementing the Freedom of Information Act (5 U.S.C. 552). Amendments to the existing regulations are necessary to ensure prompt and efficient processing of Freedom of Information Act requests within the Department of Transportation; prescribe fees more in line with costs associated with processing individual requests; establish more precise criteria to enable the agency to determine when waiver or reduction of fees is in the public interest; and incorporate disclosure procedures of the Maritime Administration and the Research and Special Programs Administration. In addition, records relating to those functions of the Civil Aeronautics Board (CAB) that transferred to the Department, pursuant to the Airline Deregulation Act of 1978 and the Civil Aeronautics Board Sunset Act of 1984, would be subject to Part 7, as revised.

DATE: Comments must be received December 16, 1985.

ADDRESSES: Comments should be addressed to the Docket Clerk (OST Docket No. 43466, Office of the General Counsel, C-55, U.S. Department of Transportation, Washington, D.C. 20590 Comments are available for public examination in the Office of the Assistant General Counsel for Regulation and Enforcement, 400 Seventh Street, SW., Room 4107, Washington, D.C. Monday through Friday from 9:00 a.m. to 5:30 p.m. ET. Persons wishing to have receipt of their comments acknowledged must send a stamped, self-addressed postcard with their comments. The Docket Clerk will return those postcards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: Rebecca H. Lima, Chief, Freedom of Information Act Division, Office of the Assistant Secretary for Public Affairs, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-4542.

SUPPLEMENTARY INFORMATION: The Department of Transportation's regulations implementing the Freedom of Information Act (5 U.S.C. 552) are contained in 49 CFR Part 7—Public Availability of Information. These regulations were last revised in 1975 (40 FR 7915; February 24, 1975). Since that time, the need for major changes in several areas has become evident. This notice of proposed rulemaking would add new procedures for notifying a submitter of confidential commercial or financial records of a request for these documents and for handling a submitter's objections to public disclosure. Proposed amendments also seek to revise substantially Subpart I, dealing with fees. In addition, the proposal would add Appendices I and J, detailing procedures within the Maritime Administration and the Research and Special Programs Administration, respectively, for the disclosure of information to the public. These and other proposed changes are discussed in greater detail below.

Proposed § 7.57 would add a requirement that the Department notify a submitter of business information which may contain trade secrets or other commercial or financial information when a request is received for release of that information. The submitter would be given an opportunity to submit objections to release of the information. The burden is on the submitter to persuade the Department that the information should not be disclosed. However, upon a decision to release the information despite the objection, the submitter would receive an advance notice of the determination. Thus, the proposed section describes the procedures for the participation of the submitter in the Department's consideration of any claim for confidential status of information received from the submitter. However, the National Highway Traffic Safety Administration (NHTSA) has detailed procedures for the consideration of claims for confidential treatment of

business information (49 CFR Part 512). Similarly, Rule 39 of the CAB's Rules of Practice (14 CFR 302.39), which has been adopted, with minor changes, by the Department (see 50 FR 2374, 2399; January 16, 1985), also sets forth detailed procedures to enable any person to object to public disclosure of any information contained in certain filed documents or oral testimony. It is proposed that NHTSA's procedures for the consideration of such claims and the procedures set forth in Rule 39 of the Rules of Practiced would supersede the proposed section in the case of information for which these parts apply. In addition, the Department is currently developing a regulation to implement the Commerical Space Launch Act (Pub. L. 98–575). This regulation will address agency procedures for treatment of confidential business information submitted pursuant to that Act. The agency expects that the future regulation will similarly supersede proposed § 7.57 in the case of this type of confidential business information.

Proposed Subpart I sets forth significant changes to existing requirements pertaining to fees charged for requests. Section 552 (a)(4)(A) of the Freedom of Information Act requires agencies to establish a "uniform schedule of fees applicable to all constituent units of [the] agency." These fees are limited to recovery of direct costs associated with document search and duplication. Under the Act, each agency is required to promulgate regulations, after the receipt of public comment, specifying applicable charges. *Id.*

Proposed § 7.93 would enable the Department to request reasonable assurances of payment of the applicable fees, except in cases where such fees have been waived. If the request for records does not provide reasonable assurances of fee payment, the Department would be able to require, at its option, assurance in writing by the requester, prepayment of all or part of the estimated fee, or payment of fees owing from previous requests by the same person or entity.

To ensure the recovery of more of the costs associated with Freedom of Information Act requests, the Department is also proposing to update its current fee schedule. Proposed § 7.95(a) would revise fees associated with the search for a record under Subpart F. The basic $2.00 charge for a records search, customarily imposed irrespective of the length of the search or the level of expertise required to perform the search, would be revised. As proposed, a search for a requested record would be charged at rates depending on the pay rate of the agency employee performing the search and the amount of time required to locate the record. In addition to such search charges, the Department also proposes to assess a requester twenty-six percent (26%) of such charges, to reflect each searcher's fringe benefits allocable to work performed in conducting the search. The fringe benefit rate was determined in accordance with provisions of the Office of Management and Budget's Cost Comparison Handbook (Supplement to OMB Circular A–76, "Performance of Commercial Activities").

Currently, § 7.95(b) permits recovery of photocopying costs in the amount of $0.25 for the first page and $0.05 for each additional page, where the pages are not larger than 11x17 inches. Proposed § 7.95(b) would impose a flat charge of $0.02 per page. In addition, proposed § 7.95(b) would similarly revise charges associated with various other types of records, including photographs, computerized data, and microfilm or microfiche copies. It should also be noted that the fees set forth in proposed § 7.95 would apply in all cases where requests are made for records relating to those functions of the CAB that were transferred to the Department. Although Part 389 of the CAB's Economic Regulations (14 CFR Part 389), dealing with fees and charges for CAB records, transferred to the Department on January 1, 1985 (see 50 FR 451; January 4, 1985), it is proposed that the fees set forth in this part will govern in the event of an inconsistency with the former regulation.

Proposed § 7.97(c) would revise existing regulatory language concerning fee waivers and reductions for requests in furtherance of the public interest and would provide greater guidance to requesters in seeking fee waivers or reductions, where appropriate. The proposed section indicates that a determination whether a fee waiver or reduction is in the public interest by the Assistant Secretary for Public Affairs, his or her designee, or the head of an operating element, as the case may be, is discretionary and is based upon the justification presented by the requester. The proposed section also provides several criteria tha may be considered by agency officials in determining whether furnishing of requested information is in the public interest. Also, fee waiver or reduction determinations would be subject to the reconsideration process described in Subpart H.

This proposed rulemaking also includes changes reflecting a recent organizational change to replace the Director of Public Affairs with an Assistant Secretary for Public Affairs. Additional changes have been made to the appendices for the Office of the Secretary and each operating element describing the places and times at which records will be available for inspection and copying; defining the kinds of records at each facility; identifying the location of the indices to such records; and identifying the officials having authority to deny requests for disclosure of records under 49 CFR Part 7. Appendix I, describing disclosure procedures and available records of the Maritime Administration, which became an operating element of the Department pursuant to the Maritime Act of 1981 (49 U.S.C. 1601 *et seq.*), and Appendix J, describing those of the Research and Special Programs Administration, which became an operating element of the Department in 1979 by an internal reorganization, have also been added.

The Department has determined that this proposed rule is not a major rule under Executive Order 12291. However, this proposed rule is significant under the Department's Regulatory Policies and Procedures 944 FR 11034, 2/26/79) since it concerns a matter in which there is a substantial public interest or controversy. The Department has also determined that the expected economic impact of the proposal is so minimal that a full regulatory evaluation is unwarranted. For this reason, I certify, that, under the criteria of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Although proposed changes to existing requirements would increase the fees associated with furnishing records under the Freedom of Information Act, the expected cost to small entities that request such records will not be significant. Such costs would be significant only in rare circumstances where Departmental personnel must search for, collect, and provide copies of a voluminous amount of records demanded in a particular Freedom of Information Act request.

List of Subjects in 49 CFR Part 7

Freedom of information, Administrative practice and procedure, Records.

Issued in Washington, D.C. on October 4, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

In consideration of the foregoing, it is proposed that Part 7 of Title 49 of the Code of Federal Regulations be revised to read as appears below:

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Subpart A—Applicability and Policy

Sec.

Subpart B—General

Subpart C—Time Limits

Subpart D—Publication in the Federal Register

Subpart E—Availability of Opinions, Orders, Staff Manuals, Statements of Policy and Interpretations: Indices

Subpart F—Availability of Reasonably Described Records

Subpart G—Exemptions

Subpart H—Procedures for Appealing Decisions Not To Disclose Records And/Or Waive Fees

Subpart I—Fees

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322, unless otherwise noted.

Subpart A—Applicability and Policy

§ 7.1 Applicability.

(a) This part implements section 552 of Title 5, United States Code, and prescribes rules governing the availability to the public of records of the Department of Transportation.

(b) Subpart G of this part describes the records that are not required to be disclosed under this part.

(c) Appendices A through J of this part:

(1) Describe the places and the times at which records will be available for inspection and copying;

(2) Define the kinds of records located at each facility;

(3) Identify the location of the indices to such records; and

(4) Identify the officials having authority to deny requests for disclosure of records under this part.

(d) The Assistant Secretary for Public Affairs may amend Appendix A to this part of reflect any changes in the items covered by that appendix. The head of an operating element concerned may amend the appendix applicable to that element to reflect any changes in the items covered by that appendix.

(e) This part applies only to records that exist as of the date of receipt of the request by the appropriate office, in accordance with § 7.53. The Department is not required to create, compile or procure a record solely for the purpose of making it available under this part.

(f) Indices are maintained to reflect all records subject to Subpart E of this part, and are available for public inspection and copying as provided in Appendices A through J to this part.

§ 7.3 Policy.

In implementing section 552 of Title 5, United States Code, it is the policy of the Department of Transportation to make information available to the public to the greatest extent possible in keeping with the spirit of that section. Therefore, all records of the Department, except those that the Department specifically determines must not be disclosed in the interest of national defense or foreign policy, for the protection of private rights and commercial interests or for the efficient conduct of public business to the extent permitted by the Freedom of Information Act, are declared to be available for public inspection and copying as provided in this part. Each officer and employee of the Department is directed to cooperate to this end and to make records available to the public promptly and to the fullest extent consistent with this policy. A record may not be withheld from the public solely because its release might suggest administrative error or embarrass an officer or employee of the Department.

§ 7.5 Definitions.

As used herein, unless the context requires otherwise:

"Administrator" means the head of each operating element of the Department and includes the Commandant of the Coast Guard.

"Department" or "DOT" means the Department of Transporation, including the Office of the Secretary and the following operating elements:

(a) The United States Coast Guard.

(b) The Federal Aviation Administration.

(c) The Federal Highway Administration.

(d) The Federal Railroad Administration.

(e) The National Highway Traffic Safety Administration.

(f) The Urban Mass Transportation Administration.

(g) The Saint Lawrence Seaway Development Corporation.

(h) The Maritime Administration.

(i) The Research and Special Programs Administration.

"Record" includes any writing, drawing, map, recording, tape, film, photograph or other documentary material by which information is preserved. The term also includes any such documentary material stored by computer. However, the term does not include uncirculated personal notes, papers and other documents created and

retained solely for the personal convenience of Departmental personnel and over which the agency exercises no control.

"Secretary" means the Secretary of Transportation or any person to whom the Secretary has delegated authority in the matter concerned.

Subpart B—General

§ 7.11 Administration of part.

Except as provided in Subpart H of this part, authority to administer this part in connection with the records of the Office of the Secretary (including the Office of the Inspector General) and not to comply with initial requests for such records under this part is delegated to the Assistant Secretary for Public Affairs. Authority to administer this part in connection with records of each operating element is delegated to each Administrator, who may redelegate to officers of that element the authority to administer this part in connection with defined groups of records. However, each Administrator may redelegate the duties under Subpart H of this part to consider appeals of initial denials of requests for records only to his or her deputy or to not more than one officer who reports directly to the Administrator and who is located at the headquarters of that operating element.

§ 7.13 Record containing both available and unavailable information.

If a record contains information that the Department determines may properly be withheld and wants to withhold, but also contains reasonably segregable information that may not be withheld, the latter information shall be made available.

§ 7.15 Protection of records.

(a) No person may, without permission, remove any record made available to him or her for inspection and copying under this part from the place where it is made available. In addition, no person may steal, alter, mutilate, obliterate or destroy, in whole or in part, such a record.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever * * * steals, purloins, or knowingly converts to his use or the use of another, without authority, sells, conveys or disposes of any record * * * conveys or disposes of any record * * * or thing of value of the United States or of any department or agency thereof * * * [s]hall be fined not more than $10,000 or imprisoned not more than 10 years or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year of both. * * *

(c) Section 2071 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited * * * in any public office, or with any * * * public officer of the United States, shall be fined not more than $2,000 or imprisoned not more than 3 years or both.

Subpart C—Time Limits

§ 7.21 Initial determination.

An initial determination whether to release a record requested pursuant to Subpart F shall be made within ten working days after the request is received in accordance with paragraph (a) § 7.53, except that this time limit may be extended by up to ten working days in accordance with § 7.25. If the determination is to grant the request, the desired record shall be available as promptly as possible. If the determination is to deny the request, the person making the request shall be notified in writing, at the same time he or she is notified of such determination, of (1) the reason for the determination; (2) the right of such person to appeal the determination; and (3) the name and title of each person responsible for the initial determination not to comply with the request.

§ 7.23 Final determination.

A determination with resepect to any appeal made pursuant to § 7.61 shall be made within twenty days after receipt of such appeal except that this time limit may be extended by up to ten working days in accordance with § 7.25.

§ 7.25 Extension.

In unusual circumstances as specified in this section, the time limits prescribed in § 7.21 and § 7.23 may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is exepected to be made. Such notice may not specify a date that would result in a cumulative extension of more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonable necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with any other agency or DOT operating element having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

Subpart D—Publication in Federal Register

§ 7.31 Applicability.

This subpart implements section 552(a)(1) of Title 5, United States Code, and prescribes rules governing the publication in the **Federal Register** of the following:

(a) Descriptions of the organization of the Department, including its operating elements and the established places at which, the officers from whom, and the methods by which, the public may secure information and make submittals or requests or obtain decisions;

(b) Statements of the general course and methods by which the Department's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by the Department; and

(e) Each amendment, revision, or repeal of any material listed in paragraphs (a) through (d) of this section.

§ 7.33 Publication required.

(a) *General.* The material described in § 7.31 shall be published in the **Federal Register.** For the purposes of this paragraph, material that will reasonably be available to the class of persons affected by it will be considered to be published in the **Federal Register** if it has been incorporated by reference therein with the approval of the Director of the Federal Register.

(b) *Effect of nonpublication.* Except to the extent that a person has actual and timely notice of the terms thereof, no person may in any manner be required

to resort to, or be adversely affected by, any procedure or matters required to be published in the Federal Register, but not so published.

Subpart E—Availability of Opinions, Orders, Staff Manuals, Statements of Policy and Interpretations: Indices

§ 7.41 Applicability.

(a) This subpart implements section 552(a)(2) of Title 5, United States Code. It prescribes the rules governing the availability, for public inspection and copying, of the following:

(1) Any final opinion (including a concurring or dissenting opinion) or order made in the adjudication of a case.

(2) Any policy or interpretation that has been adopted under the authority of the Department, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. However, this does not include staff manuals or instructions to staff concerning internal operating rules, practices, guidelines and procedures for Departmental inspectors, investigators, law enforcement officers, examiners, auditors, and negotiators and other information developed predominantly for internal use, the release of which could signficantly risk circumvention of agency regulations or statutes. Indices of materials listed in this paragraph shall be maintained as specified in Appendices A—J of this part.

(b) Any material listed in paragraph (a) of this section that is not made available for public inspection and copying, or that is not indexed as required by § 7.45, may not be cited, relied on, or used as precedent by the Department to adversely affect any member of the public unless the person to whose detriment it is relied on, used, or cited has had actual timely notice of that material.

(c) This subpart does not apply to material that is published in the Federal Register or is covered by Subpart G of this part.

§ 7.43 Deletion of identifying detail.

Whenever it is determined to be necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details shall be deleted from any record covered by Subpart E of this part that is published or made available for inspection. A full explanation of the justification for the deletion shall accompany the record published or made available for inspection.

§ 7.45 Access to materials and indices.

(a) Except as provided in paragraph (b) of this section, material listed in § 7.41(a) shall be made available for inspection and copying by any member of the public at document inspection facilities of the Department. The index of materials available at each facility shall be published in the Federal Register quarterly and shall also be located at the facility. Information as to the kinds of materials available at each facility may be obtained from the facility or the headquarters of the operating element of which it is a part.

(b) The material listed in § 7.41(a) that is published and offered for sale shall be indexed, but is not required to be kept available for public inspection. Whenever practicable, however, it will be made available for public inspection at any document inspection facility maintained by the Office of the Secretary or an operating element, whichever is concerned.

§ 7.47 Index of public materials.

The index of material subject to public inspection and copying under this subpart shall cover all material issued, adopted, or promulgated after July 4, 1967; however, earlier material may be included in the index to the extent practicable. Each index shall contain instructions on how to use it.

§ 7.49 Copies.

Copies of any material covered by this subpart that is not published and offered for sale may be ordered, upon payment of the appropriate fee, from the office indicated in § 7.53. Copies will be certified upon request and payment of the fee prescribed in § 7.95(d).

Subpart F—Availability of Reasonably Described Records

§ 7.51 Applicability.

This subpart implements section 552(a)(3) of Title 5, United States Code, and prescribes the regulations governing public inspection and copying of reasonably described records. It does not apply, however, to material that is covered by Subpart D and Subpart E of this part, records determined under Subpart G of this part not to be available, and material that is offered for sale by the Government Printing Office or the Department of Commerce's National Technical Information Service.

§ 7.53 Public availability of records.

(a) Each person desiring access to or a copy of a record covered by this subpart shall comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request must indicate that it is being made under the Freedom of Information Act.

(3) The envelope in which the request is sent must be prominently marked: "FOIA."

(4) The request must be addressed to the appropriate office as set forth in paragraph (c) of this section.

(b) If the requirements of paragraph (a) of this section are not met, the ten-day time limit described in § 7.21 shall not start to run until the request has been identified, or would have been identified with the exercise of due diligence, by an employee of the Department as a request pursuant to the Freedom of Information Act and has been received by the office to which it should have been originally sent.

(c) Each person desiring access to or a copy of a record covered by this subpart that is located in the Office of the Secretary shall make a written request to the Assistant Secretary for Public Affairs, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Each person desiring access to or a copy of a record covered by this subpart that is located in an operating element shall make a written request to that element at the address set forth in the applicable appendix to this part. If the person making the request does not know where in the Department the record is located, he or she may make inquiry of the Assistant Secretary for Public Affairs as to its location.

(d) Each request shall describe the particular record to the fullest extent possible. The request shall describe the subject matter of the record, and, if known, indicate the date when its was made, the place where it was made, and the person or office that made it. If the description does not enable the office handling the request to identify or locate the record sought, that office shall notify the person making the request and, to the extent possible, indicate the addition data required.

(e) Each record made available under this subpart shall be made available for

inspection and copying during regular business hours at the place where it is located, or, upon reasonable notice, photocopying may be arranged with the copied materials being mailed to the requester upon payment of the appropriate fee. Original records oridinarily will be copied except in those instances where, in the Department's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. In these instances, copying of the original would not be in the public interest. In any event, original records will not be released from custody.

(f) If a requested record is known not to exist in the files of the agency, or to have been destroyed or otherwise disposed of, the requester shall be so notified.

(g) Except in cases in which the fee has been waived or reduced pursuant to § 7.97, each request for a search of records or photocopying of records must be accompanied by the pfescribed fee. When the fee is not readily ascertainable without examination of the records, an estimate of the fee will be furnished to the requester prior to conducting an extensive search. The amount will be based on the estimated cost of the search and will be adjusted to reflect actual total cost after the search is completed. The requester will provide reasonable assurance of the fee payment in accordance with the procedures and rates stated in Subpart I of this part. However, the estimate will not be exceeded without written consent of the requester. The search fee is designed to reimburse the Government for direct costs incurred and is not contingent upon the success of the search. Search and copying fees shall be paid before the requested records are sent to the requester, unless the reasonable assurance provision is honored.

(h) Notwithstanding paragraphs (a) through (g) of this section, informational material, such as news releases, pamphlets and other materials of that nature that are ordinarily made available to the public as a part of any information program of the Government will be available upon oral or written request. There will be no fee for individual copies of that material so long as they are in supply. In addition, the Department will continue to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

§ 7.55 Request for records of concern to more than one Government organization.

(a) If the release of a record covered by this subpart would be of concern to both this Department and another Federal agency, the determination as to release will be made only after consultation with the other interested agency.

(b) If the release of the record covered by this subpart would be of concern to both this Department and a State or local government, or a foreign government, the determination as to release will be made by the Department only after consultation with the other interested State or local government or foreign government.

(c) Whenever a request is made for: (1) A record containing information that has been classified by another Federal agency or that may be eligible for classification by such an agency; or (2) a record containing information that relates to an investigation of a possible violation of criminal law or to a law enforcement proceeding and that was generated or originated by another Federal agency, the Office of the Secretary or the responsible operating element, whichever the case may be, shall refer the request, or the portion thereof that pertains to the record in question, to the originating agency for a releasability determination. The requester shall ordinarily be notified of the referral and informed of the name and address of the agency to which the request, or portion thereof, has been referred, unless such notification might jeopardize a law enforcement proceeding or have an adverse effect on national security matters.

§ 7.57 Request for business information submitted by a private party.

(a) If a request is received for information which may contain trade secrets or other commercial or financial information of the type described in § 7.69 of Subpart G, the submitter of such information shall, except as is provided in paragraphs (c) and (d) of this section, be notified expeditiously and asked to submit any written objections to release. Consistent with the Freedom of Information Act, the submitter shall be afforded a reasonable period of time within which to provide a detailed statement of any such objections. The submitter's statement shall specify all grounds for withholding any of the information. The burden shall be on the submitter to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed.

(b) The Office of the Secretary or the responsible operating element, whichever the case may be, shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a decision is made to disclose the business information over the objection of a submitter, the office responsible for the decision shall forward to the submitter a written notice which shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specific disclosure date.

Such notice of intent to disclose shall be forwarded to the submitter a reasonable number of days, as circumstances permit, prior to the specified date upon which disclosure is intended.

(c) The notice requirements of this section shall not apply if:

(1) The office responsible for the decision determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law) other than 5 U.S.C. 552).

(d) The procedures established in this section shall not apply in the case of:

(1) Business information submitted to the National Highway Traffic Safety Administration for which claims of confidential treatment are considered pursuant to 49 CFR Part 512.

(2) Information contained in a document to be filed or in oral testimony that is sought to be withheld pursuant to Rule 39 of the Rules of Practice (14 CFR 302.39).

Subpart G—Exemptions

§ 7.61 Applicability.

Ths subpart implements section 552(b) of Title 5, United States Code, which exempts certain records from the public disclosure requirements of section 552(a). The Department will, however release a record authorized to be withheld under §§ 7.65 through 7.79 unless it determines that the release of that record would be inconsistent with a purpose of the section concerned. Examples given in §§ 7.63 through 7.79 of records included within a particular statutory exemption are only illustrative and do not define all types of records covered by the exemption.

§ 7.63 Records relating to matters that are required by Executive Order to be kept secret.

Records relating to matters that are specifically authorized to be kept secret in the interest of national defense or foreign policy shall be exempt from public disclosure. Records exempt under this provision include those within the scope of the following, and any further amendment of any of them, but only to the extent that the records are in fact properly classified pursuant to such Executive Order. These records shall not be made available for public inspection.

(a) Executive Order 12356 of April 2, 1982 (3 CFR, 1982 Comp., p. 166);

(b) Executive Order 12065 of June 28, 1978, as amended, (3 CFR, 1978 Comp., p. 190);

(c) Executive Order 11652 of March 8, 1972, (3 CFR, 1971–1975 Comp., p. 678);

(d) Executive Order 10865 of February 20, 1960 (3 CFR, 1959–1963 Comp., p. 398);

(e) Executive Order 10501 of November 5, 1953 (3 CFR, 1959–1963 Comp., p. 979); and

(f) Executive Order 10104 of February 1, 1950 (3 CFR, 1949–1953 Comp., p. 298).

§ 7.65 Records related solely to internal personnel rules and practices.

(a) Records related solely to internal personnel rules and practices that are within the statutory exemption include memoranda pertaining to personnel matters such as staffing policies and policies and procedures for the hiring, training, promotion, demotion, and discharge of employees, and management plans, records, or proposals involving labor-management relationships. Also included within the statutory exemption are staff manuals or instructions concerning predominately internal operating rules, practices, guidelines, procedures, and administrative data and handling instructions for Departmental inspectors, investigators, examiners, auditors, and negotiators.

(b) The purpose of this section is to authorize the protection of those records in which there is slight public interest or which, if released, would substantially impair the performance of duties of Departmental employees or significantly risk circumvention of agency regulations or statutes.

§ 7.67 Records exempted from disclosure by statute.

Records relating to matters that are specifically exempted from disclosure by statute (other than section 552(b) of Title 5, United States Code) include those covered by the following:

(a) Section 3771 of Title 18, United States Code, in conjunction with Rule 6(e) of the Federal Rules of Criminal Procedure, protecting grand jury material.

(b) Section 106 of the Highway Safety Act of 1966 (23 U.S.C. 313 (note)), protecting information indentifying individuals who are the subject of highway traffic accident investigations.

(c) Section 206(c)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 (note)), protecting information concerning individuals included in reports of State driver licensing officials to the Department.

(d) Section 3315(b) of Title 46, United States Code, protecting the source of reports of defects and imperfections of vessels.

(e) Section 7319 of Title 46, United States Code, protecting the names, addresses, and next of kin of merchant seamen and entries made in records pertaining to merchant seamen.

(f) Section 10311(d) of Title 46, United States Code, protecting records of the discharge of merchant seamen.

(g) Section 1173(c)(1)(D)(3) of Title 46, United States Code, protecting wage and benefit cost data for employees covered by collective-bargaining agreements for vessels receiving operating-differential subsidy payments.

(h) Section 1173(d) of Title 46, United States Code, protecting certain foreign wage cost computations associated with the operation of foreign vessels.

(i) Section 6102 of Title 46, United States Code, protecting information derived from boating safety accident reports compiled by a State.

(j) Section 316(d)(2) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1357(d)(2)), protecting information obtained or generated in the conduct of research and development of systems and procedures to protect persons and property aboard aircraft.

(k) Section 902(f) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(f)), relating to information obtained by examining the accounts, records, or memoranda of an air carrier.

(l) Section 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1481), so far as it relates to the secrecy of acts and proceedings when requested on grounds of national defense.

(m) Section 1104 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1504), protecting information, which, if disclosed, would prejudice the formulation and presentation of positions of the United States in international aviation negotiations and adversely affect the competitive position of any United States air carrier in foreign air transporation.

§ 7.69 Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(a) Trade secrets and commercial or financial information obtained from a person and privileged or confidential are within this statutory exemption. This includes:

(1) Commercial or financial information which, if disclosed, is likely to cause substantial harm to the competitive position of the submitter of the requested information;

(2) Commercial or financial information which, if disclosed, is likely to impair the Government's ability to obtain necessary information in the future through purely voluntary cooperation;

(3) Commercial or financial information customarily subjected to an attorney-client or similar evidentiary privilege; or

(4) Information that constitutes a trade secret.

(5) Commercial or financial information which, if disclosed, would impair any other identifiable government interest or hinder agency officials in carrying out their mandate.

(b) The purpose of this section is to exempt from mandatory disclosure trade secrets and commercial or financial information obtained from a person and privileged or confidential. This section assures the confidentiality of trade secrets and commercial or financial information obtained by the Department through questionnaires and required reports to the extent that the information would not customarily be made public by the person from whom it was obtained. In any case in which the Department has obligated itself not to disclose trade secrets and commercial or financial information it receives, this section indicates the Department's intention to honor that obligation to the extent permitted by law. In addition, this section recognizes that certain materials, such as research data and materials, formulae, designs, and architectural drawings, have significance as items of property acquired, in many cases, at public expense. Such material may be treated as exempt from mandatory disclosure in any case in which similar proprietary material in private hands would be held in confidence. To the extent feasible, any person submitting information to the Department which may qualify for this exemption should request that the information not be disclosed.

§ 7.71 Intragovernmental exchanges.

(a) Any record prepared by a Government officer or employee (including those prepared by a consultant or advisory body) for internal Government use is within the statutory exemption to the extent it contains:

(1) Opinions, advice, deliberations, or recommendations made in the course of developing official action by the Government, but not actually made a part of that official action.

(2) Confidential communications between a Government attorney or an attorney acting on behalf of the Government and his or her client relating to a legal matter for which the client has sought professional advice.

(3) Information prepared by a Government attorney or an attorney acting on behalf of the Government in anticipation of litigation.

(4) Confidential commercial information generated by the Government where disclosure of such information would prejudice the Government's bargaining position in commercial transactions.

Examples of records covered by this section include staff memoranda containing advice, opinions, recommendations, suggestions, or exchanges of views, preliminary to final agency decision or action, with the exception of factual information, unless such information is inextricably intertwined with deliberative material; draft versions of audit reports prepared by the Office of Inspector General; legal opinions and/or advice rendered by a Government attorney or an attorney acting on behalf of the Government and based on information communicated in confidence by the client; memoranda and other documents prepared by a Government attorney or an attorney acting on behalf of the Government setting forth strategy with regard to pending or probable future litigation and not otherwise made a matter of public record in a particular legal proceeding; and material intended for public release at a specified future time, if premature disclosure would be detrimental to orderly decisionmaking by the Department.

(b) The purpose of this section is to protect internal records that are not routinely available by law to another party in litigation with the Government.

§ 7.73 Protection of personal privacy.

(a) Any of the following personnel, medical or similar records are within the statutory exemption if disclosure would result in a clearly unwarranted invasion of personal privacy:

(1) Personnel and background records personal to any officer or employee of the Department, or other person, including his or her residential address.

(2) Medical histories and medical records concerning individuals, including applicants for licenses.

(3) Any other detailed record containing personal information identifiable with a particular person.

(b) The purpose of this section is to provide a proper balance between the protection of personal privacy and the preservation of the public's right to Department information by authorizing the protection of intimate details of a personal nature which, if released, might unjustifiably invade an individual's privacy.

§ 7.75 Investigatory files compiled for law enforcement purposes.

(a) Files compiled for law enforcement purposes by the Department or any other Federal, State, or local agency, including those files compiled for the enforcement of regulations, are within the statutory exemption to the extent that production of such records would (1) interfere with enforcement proceedings; (2) deprive a person of a right to a fair trial or an impartial adjudication; (3) constitute an unwarranted invasion of personal privacy; (4) disclose the identity of a confidential source and, in the case of a record complied for a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security investigation, disclose confidential information furnished only by a confidential source; (5) disclose investigative techniques and procedures; or (6) endanger the life or physical safety of law enforcement personnel.

(b) The purpose of this section is to protect law enforcement files from premature disclosure, including files prepared in connection with related judicial or administrative proceedings. It includes the enforcement not only of criminal statutes but all kinds of laws and regulations.

§ 7.77 Reports of financial institutions.

Any material contained in or related to any examination, operating, or condition report prepared by, or on behalf of, or for the use of an agency responsible for the regulations or supervision of financial institutions is within the statutory exemption.

§ 7.79 Geological and geophysical information.

Any geological or geophysical information and data (including maps) concerning wells is within the statutory exemption.

Subpart H—Procedures for Appealing Decisions Not To Disclose Records And/Or Waive Fees

§ 7.81 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that the record is not to be disclosed, shall give written statement of the reasons for that determination to the person making the request; and indicate the names and titles or positions of each person responsible for the initial determination not to comply with such request, and the availability of an appeal within the Department.

(b) When a request for waiver of fees, pursuant to § 7.97(c) of this part, has been denied in whole or in part, the requester may appeal the denial.

(c) Any person who has not received an initial determination on his or her request within the time limits established by Subpart C and pursuant to paragraph (a) of this section may consider the request denied and may appeal to the head of the operating element concerned or, in the case of the Office of the Secretary, to the General Counsel of the Department. In the alternative, any person who has not received an initial determination on his or her request within the time limits established by Subpart C can seek immediate judicial review. Judicial review may be sought without the need to submit first an administrative appeal. Judicial review may be sought in the United States District Court for the judicial district in which the requester resides or has his or her principal place of business, the judicial district in which the records are located, or in the District of Columbia. A determination that a record will not be disclosed and/or that a request for a fee waiver or reduction will not be granted does not constitute final agency action for the purpose of judicial review unless: (1) It was made by the head of the operating element concerned (or his or her designee), or the General Counsel, as the case may be; or (2) unless the applicable time limit has passed without a determination on the initial request or the appeal, as the case may be having been made.

(d) Upon a determination that an appeal will be denied, the requester shall be informed in writing of the reasons for the denial of the request, and the names and titles or positions of each person responsible for the determination, and that judicial review of the determination is available in the United States District Court for the judicial district in which the requester

resides or has his or her principal place of business, the judicial district in which the requested records are located, or the District of Columbia.

(e) Each appeal must be made in writing within thirty days from the date of receipt of the original denial and should include all information and arguments relied upon by the person making the request. Such letter must indicate that it is an appeal from a denial of a request made under the Freedom of Information Act. The envelope in which the appeal is sent must be prominently marked: "FOIA Appeal." If these requirements are not met, the twenty-day limit described in § 7.23 will not begin to run until the appeal has been identified, or would have been identified with the exercise of due diligence, by an employee of the Department as an appeal under the Freedom of Information Act and has been received, or should have been received, by the appropriate office.

(f) Whenever the head of the operating element concerned, or the General Counsel, as the case may be, determines it to be necessary, he or she may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the head of the operating element concerned, or the General Counsel, as the case may be, as to the availability of the record or the appropriateness of a fee waiver or reduction consfitutes final agency action for the purpose of judicial review.

(g) The decision of the head of the operating element concerned, or the General Counsel, as the case may be, not to disclose a record under this part of not to grant a request for a fee waiver or reduction is considered to be a denial by the Secretary for the purpose of section 552(a)(4)(B) of title 5, United States Code.

(h) Any final determination by the head of an operating element or his or her delegee identified in Appendices B through J of this part, not to disclose a record under this part or not to grant a request for a fee waiver or reduction, is subject to concurrence by the General Counsel or his or her designee.

Subpart I—Fees

§ 7.91 General.

(a) This subpart prescribes fees for services performed for the public under Subparts E and F of this part by the Department.

(b) This subpart applies to all employees of the Department, including those of non-appropriated fund activities of the United States Coast Guard and the Maritime Administration.

(c) This subpart does not apply to any special study, special statistical compliation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by the Department in payment of the cost of the work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to the providing the information.

§ 7.93 Payment of fees.

The fees prescribed in this subpart may be paid by check, draft, or money order, payable to the Treasury of the United States. However, in the case of the Saint Lawrence Seaway Development Corporation, all fees resulting from a request to that operating element shall be made payable to the Saint Lawrence Seaway Development Corporation. Where an estimate of a fee for search or copying has been given and paid pursuant to § 7.53(g), the amount will not be exceeded without notification to the requester and authorization to continue. Except in cases where the agency waives payment of fees pursuant to § 7.97, searches for requested records or copying of records shall not be undertaken until the agency is reasonably assured that the applicable fees will be promptly paid. Search fees are charged regardless of the outcome of the search. If the requester does not provide reasonable assurance of fee payment, the agency may require: (1) Assurance of payment in writing, signed by a responsible representative of the requester; (2) prepayment of all or part of the estimated fees; or (3) payment of fees owing from previous requests by the same requester. However, fees associated with processing a request ordinarily will not be charged where they would amount to less than $10.00. In addition, fees associated with multiple requests from a single requester or from those acting on behalf of a single requester in an effort to take advantage of this fee waiver provision will not be charged only where such fees amount, in the aggregate, to less than $10.00.

§ 7.95 Fee schedule.

(a) A search for a record requested under Subpart F of this part, including making it available for inspection, will be charged at the rates reflecting the number of professional and/or clerical staff hours devoted to the search times the hourly pay rate of each searcher. In addition, the Department considers each searcher's fringe benefits allocable to work performed in conducting the search as a "direct cost" within the meaning of 5 U.S.C. 552(a)(4)(A). Such fringe benefits include Federal employee retirement and disability benefits, employee health and life insurance and other benefits. Thus, in addition to the hourly rate of pay for a record search by agency personnel, the Department will assess twenty-six percent (26%) of such charges to reflect fringe benefit costs to the Government. These charges also apply to computer programmer and analyst time to retrieve the information from an automated system and review by agency personnel to determine whether a record is encompassed within the scope of a request. However, they do not apply to the review of any document to determine whether a statutory exemption will be invoked.

(b) Copies of documents by photocopy or similar method (including personnel costs):

Each page not larger than 11 × 17 inches	$0.20
(c) Copies of documents by typewriter, each page	3.00
(d) Certified copies of documents:	
(1) With Department of Transportation seal	4.00
(2) True copy, without seal	2.00
(e) Photographs:	
(1) Black and White 8" × 11" print (from negative):	
First print	2.50
Each additional print	1.25
(2) Black and White 8" × 10" print (from print):	
First print	7.00
Each additional print	1.25
(3) Color 8" × 10" print (from negative):	
First print	5.00
Each additional print	1.25
(4) Color 8" × 10" print (from print):	
First print	10.00
Each additional print	3.50

(f) The fee for computer processing shall be the actual cost as charged by the computer center that processed the request. This charge normally includes the entire cost of processing the data and recording results on magnetic tape or in printed reports.

(g) If data are to be recorded on a magnetic tape that is furnished by the Department, there will be an additional charge of $15.00 to cover the cost of the tape. If the tape is supplied by the requester, it must be ½ inch wide and 2,400 feet long and must be capable of recording data at a density of 1600 and 6250 bytes per inch (BPI). Unless

otherwise designated, the tapes will be recorded at 6250 BPI density. The Department is not responsible for damage to tapes supplied by a requester. However, if the requester furnishes a replacement for a damaged tape, the processing will be completed at no additional charge.

(h) Microproduction fees are as follows:

(1) Microfilm copies, each 100 foot roll or less	$5.00
(2) Microfiche copies, each standard size sheet (4" x 6", containing up to 98 frames)	.30
(3) Aperture card to hard copy:	
First	.60
Additional	.20

(i) Preprinted materials, shelf stock, one color standard sizes:

(1) Each page (including blanks)	.15

(j) Other records: The fee for a copy of a record not described in paragraphs (b) through (i) of this section will be supplied on request. The amount of that fee will be the cost of producing and handling. The fee for search and copy of any record, where the above rates are inapplicable, will be determined in accordance with the spirit and intent of the Freedom of Information Act.

§ 7.97 Services performed without charge or at a reduced charge.

(a) No fee is to be charged for the time spent in determining what portions, if any, of a record should be withheld under one or more of the statutory exemptions; preparing correspondence relating to a request; and in making determinations pursuant to § 7.81.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a member of Congress for official use;

(3) A request from a court for official use.

(c) The waiver or reduction of fees, as the case may be, is a discretionary determination on the part of the official(s) having initial denial authority. A determination to waive or reduce fees is based upon the justification presented by the requester together with internal agency considerations. Documents will be furnished without charge or at a reduced charge if the Assistant Secretary for Public Affairs, or his or her designee, or official(s) having initial denial authority, as the case may be, determines that waiver or reduction of the fee is in the public interest and only in those situations that can be justified on a case-by-case basis. Such a determination does not create any right or expectation of a continuation or repetition of such waiver or reduction. Factors that may be considered in determining whether furnishing of the information is in the public interest include, but are not limited to, the following:

(1) The size or proportion of the population that is likely to be benefitted by the release of the information.

(2) How significantly the public will be benefitted.

(3) The uses for which the information is being requested.

(4) The current level of public attention to the general subject to which the information relates.

(5) The nature of the group requesting the material. Of special significance is whether the requester of the record is a group engaged in a non-profit activity designed for the public safety, health or welfare; and academic institution; or a student engaged in study in the field of transportation or government.

§ 7.99 Transcripts.

Transcripts of hearings or oral arguments are available for inspection. Where transcripts are prepared by a nongovernmental contractor, and the contract permits the Department to handle the reproduction of further copies, Subpart I applies. Where the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

§ 7.101 Copyrighted material.

Unless approval is secured from the holder of a copyrighted work that is the subject of a request, the Department will not reproduce or otherwise disseminate the record to a requester. However, the Department will make arrangements to enable a requester to review the copyrighted work at a Departmental facility.

§ 7.103 Alternative sources of information.

In the interest of making documents of general interest publicly available at as low a cost as possible, alternative sources shall be arranged whenever possible. In appropriate instances, material that is published and offered for sale may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; the U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, Virginia 22151; or the National Audio-Visual Center, National Archives and Records Service, General Services Administration, Washington, D.C. 20405.

Appendix A—Office of the Secretary

1. *General.* This appendix describes the location and hours of operation of the doucment inspection facility of the Office of the Secretary (OST); the kinds of records that are available for public inspection and copying at the facility; and the procedures by which members of the public may make requests for records.

2. *Document Inspection Facilities.* The document inspection facility for records of the Office of the Secretary other than those required to be filed in connection with docketed aviation matters is maintained by the Office of the Assistant Secretary for Public Affairs, Suite 9421 of the Headquarters Building, located at 400 Seventh Street, SW., Washington, D.C. 20590. This facility is open to the public from 9:00 a.m. to 5:30 p.m. ET, Monday through Friday, except legal public holidays and other special closings. The document inspection facility for documents required to be filed in connection with docketed aviation matters is maintained by the Documentary Services Division, Office of the General Counsel, Suite 4107 of the Headquarters Building. This facility is open to the public from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday, except legal public holidays and other special closings.

3. *Records available through the document inspection facilities.*

The following records are available through the document inspection facilities:

(a) Any material issued by the Office of the Secretary and Published in the Federal Register, including regulations.

(b) Final opinions (including concurring or dissenting opinions) and orders made in the adjudication of cases and issued by the Office of the Secretary.

(c) Any policy or interpretation issued by the Office of the Secretary, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value any case involving a member of the public in a similar situation.

(d) Any administrative staff manual or instruction to staff, issued by the Office of the Secretary, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(e) Formal pleadings filed in connection with docketed aviation proceedings, including applications, complaints, motions, petitions, answers, comments and replies.

(f) *DOT Orders.* DOT orders that are issued by the Department and used primarily to promulgate internal DOT policy, instructions, and general guidance.

(g) DOT Notices. DOT notices that are issued by the Department and contain short-term instructions or information that is scheduled to remain in effect for fewer than

90 days or for a predetermined period of time normally not to exceed one year.

(h) *OST Orders.* OST orders that are issued by the Office of the Secretary (OST) and used primarily to promulgate internal OST policy, instructions, and general guidance.

(i) *OST Notices.* OST notices that are issued by the Office of the Secretary and contain short-term instructions or information which is expected to remain in effect for fewer than 90 days or for a predetermined period of time normally not to exceed one year.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect an OST record, or to obtain a copy thereof, should submit a written request to the Assistant Secretary for Public Affairs, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. If it is unknown where in DOT the record(s) sought may be found, the request may be submitted to the Asssistant Secretary for Public Affairs, who will ensure the appropriate processing.

5. *The official having authority to make determinations on requests,* pursuant to the Freedom of Information Act, is limited to the Assistant Secretary for Public Affairs or his or her designee.

6. *Reconsideration of determinations not to disclose records, and to deny fee waivers.* Any person who has been notified that a record or part of a record that has been requested cannot be disclosed or that a request for a fee waiver or reduction cannot be granted, either in whole or in part, may appeal, in writing, to the General Counsel, U.S. Department of Transportation, for reconsideration of that request. The decision of the General Counsel is administratively final.

Appendix B—United States Coast Guard

1. *General.* This appendix described the document inspection facilities of the U.S. Coast Guard, the kind of records that are available for public inspection and copying at those facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* The document inspection facilities are located at the offices of the Commandant and District Commanders. The address for each of these facilities is set below. They are open during the hours specified. The States or regions within the jurisdiction of each District are also provided.

Commandant (G–CMA), U.S. Coast Guard, Washington, D.C. 20593. The facility is located at Coast Guard Headquarters, Management Analysis Division, 2100 Second Street, SW., Washington, D.C. 20593. 7:30 a.m.–4:00 p.m. ET.

Commander, First Coast Guard District, 150 Causeway Street, Boston, MA 02114. 8:00 a.m.–4:30 p.m. (Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103. 8:45 a.m.–5:15 p.m.CT. (Alabama (northern), Arkansas, Colorado, Illinois (parts), Indiana (parts), Iowa, Kansas, Kentucky, Minnesota (parts), Mississippi (northern), Missouri, Nebraska, North Dakota, Ohio (parts), Oklahoma, Pennsylvania (western), South Dakota, Tennessee, West Virginia, Wisconsin (western), and Wyoming)

Commander, Third Coast Guard District, Governor's Island, New York, NY 10004. 8:00 a.m.–4:30 p.m. ET. (Connecticut, Delaware, New Jersey, New York (eastern), and Pennsylvania (eastern))

Commander, Fifth Coast Guard District, Federal Office Building, 431 Crawford Street, Portsmouth, VA 23705. 8:00 a.m.–4:30 p.m. ET. (Maryland, North Carolina, and Virginia)

Commander, Seventh Coast Guard District, Federal Building, Room 1018, 51 SW First Avenue, Miami, FL 33130. 8:00 a.m.–4:30 p.m. ET. (Florida (parts), Georgia (parts), and South Carolina)

Commander, Eight Coast Guard District, 500 Camp Street, New Orleans, LA 70130. 7:45 a.m.–4:15 p.m. CT. (Alabama (parts), Florida (northeastern), Georgia (southeastern), Louisiana, Mississippi (parts), New Mexico, and Texas)

Commander, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, OH 44199. 7:30 a.m.–4:00 p.m. ET. (Illinios (northeastern), Indiana (northern), Michigan, Minnesota (northern), New York (northwestern), Ohio (northern), Pennsylvania (northeastern), Wisconsin (eastern))

Commander, Eleventh Coast Guard District, 400 Oceangate Boulevard, Long Beach, CA 90882. 8:00 a.m.–4:30 p.m. Pt. (Arizona, California (southern), Nevada (southern), and Utah (southern))

Commander, Twelfth Coast Guard District, Government Island, Alameda, CA 94501. 7:45 a.m.–4:15 p.m. PT. (California (parts), Nevada (parts), and Utah (parts))

Commander, Thirteenth Coast Guard District, Federal Building, Room 3590, 915 Second Avenue, Seattle, WA 98174. 7:45 a.m.–4:15 p.m. PT. (Idaho, Montana, Oregon, and Washington)

Commander, Fourtheenth Coast Guard District, 300 Ala Moana Boulevard, Honolulu, HI 96850. 6:30 a.m.–3:00 p.m. Hawaii—Aleutian Standard Time (Hawaii)

Commander, Seventeenth Coast Guard District, Federal Building, 709 West 9th Street, Post Office Box 3–5000, Juneau, AK 99802. 8:00 a.m.—4:00 p.m. Alaska Time. (Alaska)

3. *Records available at document inspection facilities.*

(a) The following records are available at any U.S. Coast Guard document inspection facility:

(1) Final opinions and orders made in the adjudication of cases by the Commandant, U.S. Coast Guard.

(2) U.S. Coast Guard numbered publications that affect any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(b) Opinions and orders of administrative law judges are available at the document inspection facility of the Office of the Commandant and the district in which the administrative law judge is located.

(c) Policies and interpretations issued within the U.S. Coast Guard (including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation) are available at the document inspection facility of the Office of the Commandant.

(d) An index of the records located at each facility is maintained at that facility.

(e) The records and the index may be inspected at the facility, without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart H of this part.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or obtain a copy thereof, should submit the request in writing to the U.S. Coast Guard office at which such record is located. The addresses of the Commandant and District Commanders are listed in section 2 of this Appendix. If the office at which the record is located is unknown, the request may be submitted to the Office of the Commandant at the address listed in section 2 of this Appendix. The following table gives illustrations of types of records and specifies where requests for such records are appropriately addressed:

(a) Examples of records for which requests may properly be made to either the Office of the Commandant, U.S. Coast Guard or office of the appropriate District Commander include the following:

(1) Marine Casualty investigative records.

(2) Records of certificates and licenses issued.

(3) Merchant vessel inspection records.

(4) Records of merchant vessel documentation and recording of sales and other dispositions.

(5) Records of U.S. Coast Guard property and contracts.

(b) Examples of records for which requests may properly be made only to the Office of the Commandant, U.S. Coast Guard, include the following:

(1) Central files of merchant seamen.

(2) Merchant vessel shipping articles.

(3) Merchant vessel equipment approvals.

(4) Merchant Marine Council proceedings.

(5) Recreational boating records.

(6) Great Lakes pilotage records.

(7) Records pertaining to bridges over navigable waters.

(8) Central files of U.S. Coast Guard personnel.

(9) U.S. Coast Guard courts martial records.

(10) U.S. Coast Guard vessel and shore station log books more than one year old on January 1, of the year in which the request is made.

(c) Examples of records for which requests may properly be made only to the appropriate District Commander include the following:

(1) Navigation and vessel inspection penalty action records.

(2) Search and rescue reports.

(3) Coast Guard vessel and shore station log books for the current calendar year and the calendar year immediately proceeding the current year.

(4) Port safety and waterfront facility records.

(5) Aids to navigation records.
(6) Records of bridges over navigable waters.
(7) Merchant vessel logbooks.
(8) Shipyard and factory inspection records.

5. *Officials having initial authority to deny requests.* The following officials have authority to make initial determinations to deny requests for records:

(a) District Commanders or their designees including:

(1) Commander, First Coast Guard District.
(2) Commander, Second Coast Guard District.
(3) Commander, Third Coast Guard District.
(4) Commander, Fifth Coast Guard District.
(5) Commander, Seventh Coast Guard District.
(6) Commander, Eighth Coast Guard District.
(7) Commander, Ninth Coast Guard District.
(8) Commander, Eleventh Coast Guard District.
(9) Commander, Twelfth Coast Guard District.
(10) Commander, Thirteenth Coast Guard District.
(11) Commander, Fourteenth Coast Guard District.
(12) Commander, Seventeenth Coast Guard District.
(13) Commander, Coast Guard Activities Europe.
(14) Superintendent, U.S. Coast Guard Academy.

(b) U.S. Coast Guard Headquarters officials or their designees concerning records within their office, including:

(1) Chief, Plans and Evaluation Division (for records in the office of the Chief of Staff).
(2) Chief, Office of Boating, Public and Consumer Affairs.
(3) Chief, Office of Research and Development.
(4) Chief, Office of Engineering.
(5) Chief, Office of Comptroller.
(6) Chief, Office of Civil Rights.
(7) Chief, Office of Health Services.
(8) Chief, General Law Division (for records in the Office of Chief Counsel, U.S. Coast Guard).
(9) Chief, Office of Merchant Marine Safety.
(10) Chief, Office of Operations.
(11) Chief, Office of Personnel.
(12) Chief, Office of Readiness and Reserve.
(13) Chief, Office of Navigation.
(14) Chief, Office of Command, Control and Communications.
(15) Chief, Office of Marine Environment and Systems.

6. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who has been notified that a record or part of a record that has been requested will not be disclosed, or that a request for the waiver or reduction of a processing fee has been denied, may apply, in writing, to the Commandant (G-CMA), U.S. Coast Guard for reconsideration of that determination. The decision of the Commandant or his or her designee is administratively final.

Appendix C—Federal Aviation Administration

1. *General.* This appendix describes the document inspection facilities of the Federal Aviation Administration (FAA), the kinds of records that are available for public inspection and copying at those facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained at FAA Headquarters, each FAA regional office, the Aeronautical Center, and the FAA Technical Center. The document inspection facility for the European Office is located at FAA Headquarters. These facilities are open to the public during local times specified in the following listings. The States within the jurisdictional area of each FAA Regional Office are also listed in parentheses.

FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. 8:30 a.m.–5:30 p.m. ET.

Alaska Region, 701 C Street, Box 14, Anchorage, AK 99513. 7:30 a.m.—4:00 p.m. Alaska Time (Alaska)

Central Region, 601 East 12th Street, Kansas City, Missouri 64106. 7:30 a.m.–4:00 p.m. CT. (Iowa, Kansas, Missouri, and Nebraska)

Eastern Region, Federal Bldg., JFK International Airport, Jamaica, NY 11430. 8:00 a.m.–4:30 p.m. ET. (District of Columbia, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia)

Great Lakes Region, 2300 East Devon Street, Des Plaines, Ill. 60018. 7:30–4:00 p.m. CT. (Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin)

New England Region, 12 New England Executive Park, Box 510, Burlington, MA 01803. 8:00 a.m.–4:30 p.m. ET. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, WA 98168. 7:30 a.m.–4:00 p.m. PT. (Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming)

Southern Region, 3400 Norman Berry Drive, East Point, GA (Mailing Address: Post Office Box 20636, Atlanta, GA 30320). 8:00 a.m.–4:30 p.m. ET. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Southwest Region, 4400 Blue Mound Road, Post Office Box 1689, Fort Worth, TX 76101. 8:00 a.m.–4:30 p.m. CT. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Western Pacific Region, 15000 Aviation Boulevard, Hawthorne, CA (Mailing Address: Post Office Box 92007, World-Way Postal Center, Los Angeles, CA 90009). 7:30 a.m.–4:00 a.m. PT. (Arizona, California, Hawaii, and Nevada)

Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard (Mailing Address: Post Office Box 25082), Oklahoma City, OK 73125. 8:00 a.m.–4:30 p.m. CT.

FAA Technical Center, Atlantic City Airport, Atlantic City, NJ 08405. 8:00 a.m.–4:30 p.m. ET.

Metropolitan Washington Airport, Hanger 9, Washington, D.C. 20001: 8:30 a.m.–5:00 p.m. ET.

3. *Records available at document inspection facilities.*

(a) The following records under Subpart E of this part are available at FAA document inspection facilities:

(1) Final opinions and orders made in adjudication of cases by the Administrator, FAA, or his/her designee.

(2) Policies and interpretations, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation. All such policies and interpretations made by the Administrator, Deputy Administrator, Associate Administrators, directors, and heads of offices are available at the FAA Headquarters document inspection facility; only those policies and interpretations made by the Administrator, Deputy Administrator, and the regional or center director concerned are available at regional and center document inspection facilities.

(3) Any administrative staff manual or instruction to staff that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. Such documents are available at the inspection facility of the organizational unit which has issued them.

(b) An index of the records located at each document inspection facility is maintained at that facility.

(c) The records and the index may be inspected, without charge, at the facility. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

4. *Requests for reasonably described records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Assistant Administrator for Public Affairs, FAA Headquarters, or the director of the region or center in which it is located. The addresses of FAA Headquarters and the Regions and Centers are listed in paragraph 2 of this Appendix. If the location of the record is not known, the request may be submitted to the Assistant Administrator for Public Affairs, FAA Headquarters. Each request must be accompanied by the appropriate fee prescribed in Subpart I of this part. In some instances, the amount of the fee will have to be determined after the request has been received due to the circumstances peculiar to each case. The following list gives illustrations of types of records and where they might be located:

(a) Records pertaining to the issue, amendment, suspension or revocation of certificates, permits, authorizations, and approvals, such as:

(1) Airman certificates and ratings for pilots, flight instructors, flight navigators, flight engineers, aircraft dispatchers, mechanics, repairmen, air traffic control operators, and parachute riggers and ground instructor certificates are maintained at the Mike Monroney Aeronautical Center.

(2) Aircraft registration certificates and airworthiness certificates are maintained at the Aeronautical Center.

(3) Aircraft type certificates and production certificates are maintained at the regional office within which the issuance was made.

(4) Ferry permits and special flight authorizations are maintained at the district office of the region within which the issuance was made.

(5) Air carrier operator certificates, comercial operator certificates, agricultural aircraft operator certificates, repair station certificates, parachute loft certificates, pilot school certificates, and mechanic school certificates are maintained at the district office of the region within which the certification was taken.

(b) Records of designations of representatives of the Administrator are located at FAA Headquarters.

(c) Records relating to Federal-aid airport grants are located at the regional office within which the grant was made.

(d) Records of approvals of navigational facilities under Federal Aviation Regulations (FAR) Part 171 are located at the regional office within which the approval was issued.

(e) Records relating to civil penalty actions and seizure of aircraft are located at the regional office within which the action was taken.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person to whom a record is not made available within the time limits set forth in § 7.21 of this part, or any extension thereof in accordance with § 7.25 of this part, who is denied a fee waiver or reduction under § 7.97(c), or who has been notified that a record that has been requested will not be disclosed, may apply, in writing, to the Assistant Administrator for Public Affairs, FAA Headquarters, for reconsideration of that request. Application for reconsideration must be made within 30 days from the expiration of the time limitations set forth in Subpart C or the receipt of denial, and must follow the procedures and requirements set forth in Subpart H. For all purposes, including that of judicial review, the decision of the Assistant Administrator for Public Affairs is administratively final.

Appendix D—Federal Highway Administration

1. *General.* This appendix describes the location and hours of operation of the document inspection facilities of the Federal Highway Administration (FHWA); the kinds of records that are available for public inspection and copying at these facilities; and the procedures by which members of the public may make requests for records.

2. *Document Inspection Facilities.* Document inspection facilities are maintained at the Federal Highway Administration Headquarters, each regional office, and each division office. These facilities are open to the public during regular working hours, which are included parenthetically after each address below. Written requests for information should be sent to the appropriate office and the envelope in which the request is sent must be prominently marked with the letters "FOIA."

Washington Headquarters

FOIA Program Officer (HMS–10), Federal Highway Administration, 400 Seventh Street, SW., Room 4428, Washington, DC, 20590. 7:45 a.m.–4:15 p.m. ET.

Regional Offices

Regional Federal Highway Administrator, Region 1, Federal Highway Administration, Clinton Avenue and North Pearl Street, Room 729, Albany, NY 12207. 7:30 a.m.—4:00 p.m. ET. (New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Puerto Rico, Virgin Islands)

Regional Federal Highway Administrator, Region 3, Federal Highway Administration, 31 Hopkins Plaza, Room 1633, Baltimore, MD 21201. 7:45 a.m.—4:15 p.m. ET. (Maryland, Virginia, Delaware, District of Columbia, Pennsylvania, West Virginia)

Regional Federal Highway Administrator, Region 4, Federal Highway Administration, 1720 Peachtree Road, N.W., Suite 200, Atlanta, GA 30367. 7:45 a.m.—4:15 p.m. ET. (Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, North Carolina, South Carolina)

Regional Federal Highway Administrator, Region 5, Federal Highway Administration, 18209 Dixie Highway, Homewood, IL 60430. 7:30 a.m.—4:15 p.m. CT. (Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)

Regional Federal Highway Administrator, Region 6, Federal Highway Administration, 819 Taylor Street, Fort Worth, TX 76102. 8:00 a.m.—4:30 p.m. CT. (Texas, Louisiana, Arkansas, Oklahoma, New Mexico)

Regional Federal Highway Administrator, Region 7, Federal Highway Administration, 6301 Rockhill Road, P.O. Box 19715, Kansas City, MO 64131. 7:30 a.m.—4:15 p.m. CT. (Missouri, Iowa, Kansas, Nebraska)

Regional Federal Highway Administrator, Region 8, Federal Highway Administration, 555 Zang Street, Room 400, Lakewood, CO 80228. 7:45 a.m.—4:15 p.m. MT. (Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)

Regional Federal Highway Administrator, Region 9, Federal Highway Administration, 211 Main Street, Room 1100, San Francisco, CA 94105. 7:45 a.m.—4:15 p.m. PT. (California, Arizona, Nevada, Hawaii, American Samoa, Guam)

Regional Federal Highway Administrator, Region 10, Federal Highway Administration, Mohawk Building, Room 412, 708 SW Third Street, Portland, OR 97204. 7:00 a.m.—5:45 p.m. PT. (Oregon, Idaho, Washington, Alaska)

Division Offices

Alabama, 441 High Street, Montgomery, AL 36104–4684. 7:45 a.m.—4:30 p.m. CT.

Alaska, Federal Building, 709 West Ninth Street, P.O. Box 1648, Juneau, AK 99802. 8:00 a.m.—4:30 p.m. Alaska Time.

Arizona, 3500 North Central Avenue, Suite 201, Phoenix, AZ 85012. 8:00 a.m.—4:30 p.m. MT.

Arkansas, Room 3128, Federal Office Building, 700 West Capitol Avenue, Little Rock, AR 72201–3298. 7:45 a.m.—4:30 p.m. CT.

California, Federal Building, Second Floor, 801 I Street, Sacramento, CA 95814. 7:45 a.m.—4:30 p.m. PT.

Colorado, 555 Zang Street, Room 250, Lakewood, CO 80228. 7:45 a.m.—4:15 p.m. MT.

Connecticut, One Hartford Square West, South Building, Hartford, CT 06101. 7:30 a.m.—4:00 p.m. ET.

Delaware, Federal Office Building, Room 2102, 300 South New Street, Dover, DE 19901–6726. 7:45 a.m.—4:15 p.m. ET.

District of Columbia, Nassif Building, Room 6320, 400 Seventh Street, SW., Washington, D.C. 20590. 7:30 a.m.—4:00 p.m. ET.

Florida, 227 North Bronough Street, Room 2015, Tallahassee, FL 32301. 7:30 a.m.—4:00 p.m. ET.

Georgia, Suite 700, 1422 West Peachtree Road, Atlanta, GA 30309. 7:00 a.m.—4:00 p.m. ET.

Hawaii, 300 Ala Moana Boulevard, Room 4119, Honolulu, HI 96850. 7:15 a.m.—4:15 p.m. Hawaii—Aleutian Standard Time.

Idaho, 3010 W. State Street, Boise, ID 83703. 7:30 a.m.—4:30 p.m. MT.

Illinois, 320 West Washington Street, Room 700, Springfield, IL 62701. 7:30 a.m–4:15 p.m. CT.

Indiana, 575 N. Pennsylvania Street, Room 254, Indianapolis, IN 46204. 7:30 a.m–4:00 pm. Eastern Standard Time.

Iowa, 105 Sixth Street, Ames, IA 50010. 7:45 a.m–4:30 p.m. CT.

Kansas, 444 SE Quincy Street, Room 240, Topeka, KA 66683. 7:45 a.m–4:15 p.m. CT.

Kentucky, John C. Watts Federal Building and U.S. Courthouse, 330 West Broadway, Frankfort, KY 40602. 8:00 a.m.–4:45 p.m. ET.

Louisiana, Federal Building, Room 239, 750 Florida Street, Baton Rouge, LA 70801. 7:30 a.m–4:00 p.m. CT.

Maine, Federal Building, U.S. Post Office, Room 614, 40 Western Avenue, Augusta, ME 04330. 7:30 a.m–4:00 p.m. ET.

Maryland, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, MD 21211. 7:45 a.m–4:15 p.m. ET.

Massachusetts, Transportation Systems Center, 55 Broadway, 10th Floor, Cambridge, MA 02142. 7:45 a.m–4:15 p.m. ET.

Michigan, Federal Building, 315 West Allegan Street, P.O. Box 10147, Room 211, Lansing, MI 48901. 8:00 a.m–4:45 p.m. ET.

Minnesota, Metro Square Building, Suite 490, Seventh & Robert Streets, St. Paul, MN 55101. 7:30 a.m–4:00 p.m. CT.

Mississippi, 666 North Street, Suite 105, Jackson, MS 39202. 7:45 a.m.–4:15 p.m. CT.

Missouri, 209 Adams Street, Jefferson City, MO 65102. 7:45 a.m.–4:15 p.m. CT.

Montana, Federal Office Building, 301 South Park, Drawer 10056, Helena, MT 59626–0056. 7:30 a.m.–4:00 p.m. MT.

Nebraska, Federal Building, Room 487, 100 Centennial Mall North, Lincoln, NE 68508. 7:45 a.m.–4:15 p.m. CT.

Nevada, 1050 E. Williams Street, Suite 300, Carson City, NV 89701–3192. 7:45 a.m.–4:30 p.m. PT.

New Hampshire, Federal Building, 55 Pleasant Street, Room 219, Concord, NH 03301. 7:45 a.m.–4:15 p.m. ET.

New Jersey, Suburban Square Building, 25 Scotch Road, Second Floor, Trenton, NJ 08628-2595. 8:00 a.m.-4:30 p.m. ET.
New Mexico, 117 U.S. Court House, Post Office Box 1088, Santa Fe, NM 87501. 7:30 a.m.-4:00 p.m. MT.
New York, Leo W. O'Brien Federal Building, Ninth Floor, Clinton Avenue and North Pearl Street, Albany, NY 12207. 7:30 a.m.-4:00 p.m. ET.
North Carolina, 310 New Bern Avenue, P.O. Box 26806, Raleigh, NC 27611. 7:45 a.m.-4:15 p.m. ET.
North Dakota, Federal Building, P.O. Box 1755, Bismarck, ND 58502. 7:45 a.m.—4:00 p.m. CT.
Ohio, 200 North High Street, Room 328, Columbus, OH 43215 7:30 am.-4:15 p.m. ET.
Oklahoma, Federal Office Building, Room 454, 200 N.W. Fifth Street, Oklahoma City, OK 73102. 8:00 am.-4:30 p.m. CT.
Oregon, The Equitable Center, Suite 100, 530 Center Street, N.E., Salem, OR 97301. 7:45 a.m.-4:30 p.m. PT.
Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108. 8:00 a.m.-4:30 p.m. ET.
Puerto Rico, Office Number 150, U.S. Courthouse and Federal Building, Carlos Chardon Street, Hato Rey, PR 00918. 7:30 a.m.-4:00 p.m. Atlantic Standard Time.
Rhode Island, 380 Westminister Mall, Fifth Floor, Providence, RI 02903. 7:45 a.m.-4:15 p.m. ET.
South Carolina, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 758, Columbia, SC 29201. 8:15 a.m.-4:45 p.m. ET.
South Dakota, P.O. Box 700, Federal Office Building, Pierre, SD 57501. 8:00 a.m.—4:30 p.m. CT.
Tennessee, Federal Building, U.S. Courthouse, 801 Broadway, Room A-926, Nashville, TN 37203. 8:00 a.m.—4:30 p.m. CT.
Texas, Room 826, Federal Office Building, 300 East Eighth Street, Austin, TX 78701. 7:30 a.m.—4:15 p.m. CT.
Utah, Federal Building, 125 South State Street, Salt Lake City, UT 84111. 7:45 a.m.—4:30 p.m. MT.
Vermont, Federal Building, Montpelier, VT 05602. 7:30 a.m.—4:00 p.m. ET.
Virginia, Federal Building, Tenth Floor, 400 North Eighth Street, Richmond, VA 23240. 7:45 a.m.—4:15 p.m. ET.
Virgin Islands, Federal Building, Veterans Drive, Room 114, St. Thomas, VI 00801. 8:00 a.m.—4:30 p.m. Atlantic Standard Time.
Washington, Evergreen Plaza, 711 South Capitol Way, Suite 501, Olympia, WA 98501. 7:30 a.m.—4:30 p.m. PT.
West Virginia, 550 Eagan Street, Suite 300, Charleston, WV 25301. 8:00 a.m.—4:30 p.m. ET.
Wisconsin, 4502 Vernon Boulevard, P.O. Box 5428, Madison, WI 53705. 7:30 a.m.—4:15 p.m. CT.
Wyoming, 916 Evans Avenue, P.O. Box 1127, Cheyenne, WY 82001. 7:45 a.m.—4:30 p.m. MT.

Direct Federal Divisions

Division Engineer, Eastern Direct Federal Division, 1000 North Glebe Road, Arlington, VA 22201. 7:45 a.m.—4:15 p.m. ET.
Division Engineer, Central Direct Federal Division, 555 Zang Street, P.O. Box 25246, Denver, CO 80225. 7:45 a.m.—4:15 p.m. MT.
Division Engineer, Western Direct Federal Division, 610 East Fifth Street, Vancouver, WA 98661. 8:00 a.m.—4:30 p.m. PT.

3. *Records available through document inspection facilities.*

(a) The following records are available through the FHWA Headquarters document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Federal Highway Administration;

(2) Any policy or interpretation issued by the Federal Highway Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(b) The following records are available through all Federal Highway Administration document inspection facilities:

(1) *FHWA Orders.* These orders are issued by the Federal Highway Administration and used primarily to promulgate internal policy, instructions, and general guidance.

(2) *FHWA Notices.* These notices are issued by the Federal Highway Administration and contain short term instructions or information which is expected to remain in effect for a predetermined period of time normally not to exceed one year.

(3) *FHWA Bulletins.* These bulletins are issued by the Federal Highway Administration and are used to promulgate one time announcements or transmit reports, publications, and other similar material.

(4) *FHWA/NHTSA Orders.* These are orders issued jointly by the Federal Highway Administration and the National Highway Traffic Safety Administration and contain policies, procedures, and information pertaining to the joint administration of the State and Community Highway Safety Programs.

(5) *Technical Advisories.* These contain permanent or long-lasting detailed techniques or technical material that is advisory in nature.

(6) *FHWA Manuals.* These manuals are issued by the Federal Highway Administration and contain detailed procedures relating to policies and program responsibilities. They include the following:

(i) Federal-Aid Highway Program Manual. This Manual contains policies, procedures, standards, and guides relating to the administration of the Federal Aid Highway Program and the Direct Federal Construction Program.

(ii) Administrative Manual. (Internal FHWA).

(iii) Labor Compliance Manual.

(iv) Civil Rights-Equal Opportunity Manual.

(v) Highway Planning Program Manual (Vol. 1)

(vi) Motor Carrier Safety Operations Manual.

(vii) Highway Safety Program Manual.

(viii) Manual on Uniform Traffic Control Devices.

(ix) Right of Way Operations Manual.

(x) FP-79 Construction Manual.

These Manuals contain details of compliance programs, accident investigations, enforcement programs, and interpretations.

(7) *Highway Safety Standards.* These highway related standards, issued by the Federal Highway Administration, apply to the aspect of State highway safety programs for which responsibility resides in the Federal Highway Administration under the Highway Safety Act of 1966 and delegations of authority by the Secretary of Transportation

(8) Motor Carrier Safety Administrative Rulings.

(9) Motor Carrier Safety Waivers From Regulations.

(10) Indices for the above records.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request, in writing to the Federal Highway Administration FOIA Program Office at the address listed in paragraph 2 above. Each request is subject to the appropriate fee prescribed in Subpart I of this part.

5. *Determinations not to disclose records.* The FOIA Program Officer in Washington Headquarters is the only official authorized to deny requests for the disclosure of records for any Federal Highway Administration element, both headquarters and field.

6. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person who has been notified that a record or any part of a record that has been requested will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Associate Administrator for Administration, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C., 20590 for reconsideration of the request. The decision of the Associate Administrator for Administration is administratively final.

Appendix E—Federal Railroad Administration

1. *General.* This appendix describes the document inspection facility of the Federal Railroad Administration, the kinds of records that are available for public inspection and copying at that facility, and the procedures by which memebers of the public may make requests for identifiable records.

2. *Document inspection facility.* The document inspection facility is maintained by the Executive Director of the Federal Railroad Administration, Room 8212, 400 Seventh Street, SW., Washington, D.C., 20590. This facility is open to the public 8:30 a.m. to 5:00 p.m. ET, Monday through Friday, except for legal public holidays and other special closings.

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Any material issued by the Federal Railroad Administration and published in the **Federal Register**, including regulations.

(b) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued

by the Federal Railroad Administration. Included are opinions and orders issued under the Safety Appliance Act, Hours of Service Act, Locomotive Inspection Act, Accident Reports Act, and the Federal Railroad Safety Act of 1970.

(c) Any policy or interpretation issued within the Federal Railroad Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Subject to § 7.41(a)(3) of this part, any administrative staff manual or instruction to staff, issued by the Federal Railroad Administration, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(e) Public notice of pending administrative actions.

(f) Office of Safety Annual Report.

(g) Accident Bulletin.

(h) Rail-Highway Grade-Crossing Bulletin.

(i) Locomative Specifications.

(j) Subject to § 7.69 of this part, documents related to loans, loan guarantees, or grant programs conducted by the Federal Railroad Administration.

(k) An index to the material described in (a) through (d). The records and the index may be inspected at the facility without charge. Copies of records may be obtained upon payment of fees prescribed in Subpart H of this part.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Executive Director, Federal Railroad Administration, Room 8212, 400 Seventh Street, SW., Washington, D.C. 20590. If the cost of the service is known, each request should be accompanied by the appropriate fee prescribed in Subpart I of this part. Otherwise, each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment may be required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. *Reconsideration of determination not to disclose records and to deny fee waivers.* Any person to whom a record has not been made available within the time limits established by this part, any person who has been given a determination that the records that have been requested will not be disclosed, and any person who have been denied a fee waiver or reduction, may apply, in writing, to the Federal Railroad Administrator, 400 Seventh Street, SW., Washington, D.C. 20590, for reconsideration of the request. For all purposes, including that of judicial review, the decision of the Administrator is administratively final.

Appendix F—National Highway Traffic Safety Administration

1. *General.* This appendix describes the document inspection facilities of the National Highway Traffic Safety Administration (NHTSA), the kinds of records that are available for inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained for NHTSA Headquarters and each NHTSA regional office. Unless otherwise noted, these facilities, which are located at the following addresses, are open to the public from 7:45 a.m. to 4:15 p.m. local time, Monday through Friday, except Federal holidays and other special closings.

Washington Headquarters

National Highway Traffic Safety Administration, Technical Reference Division, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

National Highway Traffic Safety Administration, Technical Reference Division, Docket Section Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. (Material covered by paragraph 3(a)(8) of this Appendix only).

Regional Offices

Region I—Regional Administrator, NHTSA, Transportation Systems Center, 55 Broadway, Cambridge, MA 02142. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Region II—Regional Administrator, NHTSA, 222 Mamaroneck Avenue, Suite 204, White Plains, New York 10605. (New York, New Jersey, Puerto Rico, and Virgin Islands)

Region III—Regional Administrator, NHTSA, Airport Plaza Building, 793 Elkridge Landing Road, Linthicum, MD 21090. Hours of operation are 8:00 a.m. to 4:30 p.m. ET. (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)

Region IV—Regional Administrator, NHTSA, Suite 501, 1720 Peachtree Road, NW., Atlanta, GA 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Region V—Regional Administrator, NHTSA, Executive Plaza, Suite 214, 1010 Dixie Highway, Chicago Heights, IL 60411. Hours of operation are 8:00 a.m. to 4:30 p.m. CT. (Illinois, Indiana, Michigan, Ohio, and Wisconsin)

Region VI—Regional Administrator, NHTSA, Room 11A26, 819 Taylor Street, Fort Worth, TX 76102. Hours of operation are 8:00 a.m. to 4:30 p.m CT. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Region VII—Regional Administrator, NHTSA, P.O. Box 19515, Kansas City, MO 64141. (Iowa, Kansas, Missouri, and Nebraska)

Region VIII—Regional Administrator, NHTSA, 555 Zang Street, 1st Floor, Denver, CO 80228. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

Region IX—Regional Administrator, NHTSA 211 Main Street, Suite 1021, San Francisco, CA 94105. (American Samoa, Arizona, California, Guam, Hawaii, and Nevada)

Region X—Regional Administrator, NHTSA, 3140 Federal Building, 915 Second Avenue, Seattle, Washington 98174. Hours of operation are 8:00 a.m. to 4:30 p.m. PT. (Alaska, Idaho, Oregon, and Washington)

3. *Records available at document inspection facilities.*

(a) Certain documents not in the custody of the document inspection facility (for example, current defect investigations) may be reviewed there, but only if they are requested in advance. The following records are available at the NHTSA Headquarters document inspection facility:

(1) Final opinions and orders made in the adjudication of cases and issued by the National Highway Traffic Safety Administration.

(2) NHTSA test reports that assess manufacturer's compliance with Federal Motor Vehicle Safety Standards.

(3) Investigative reports concerning compliance with standards and possible safety-related defects.

(4) Summaries and detailed reports of motor vehicle recall campaigns.

(5) Consumers' complaint letters regarding motor vehicles.

(6) Contractor's technical reports documenting the results of research performed for NHTSA pursuant to contract.

(7) Multidisciplinary case studies on the causes of selected motor vehicle accidents.

(8) Rulemaking actions including comments and informal interpretations and opinions concerning provisions of the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act and regulations and standards issued thereunder which have been given to members of the public by National Highway Traffic Safety Administration officials.

(b) The following records are available at all NHTSA document inspection facilities:

(1) *NHTSA Orders.* These orders are issued by the National Highway Traffic Safety Administration and contain policy, instructions, and general procedures.

(2) *NHTSA Notices.* These notices are issued by the National Highway Traffic Safety Administration and transmit one-time or short-term announcements or temporary directives (1 year or less).

(3) *Motor Vehicle Safety Standards.* These standards, issued by the National Highway Traffic Safety Administration, apply to new motor vehicles and equipment thereon.

(4) *Highway Safety Standards.* These standards, issued by the National Highway Traffic Safety Administration, apply to State highway safety programs.

(5) *State Highway Programs.* Reports on State highway programs presenting the proposed implementation of Federal Highway Standards on an annual and long-range basis. These reports are available at the NHTSA Headquarters document inspection facility and the appropriate Regional Administrator's Office.

4. *Requests for records under Subpart F of this part.*

Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to any NHTSA document inspection facility. If that facility does not have custody of the record, it will forward the request to the appropriate office. If the cost of the service is known, each request must be accompanied by the appropriate fee prescribed in Subpart I of this part.

Otherwise, each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment is required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person to whom a record is not made available within a reasonable time after a request, any person who has been notified that a record which has been requested will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Associate Administrator for Administration, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, for reconsideration of the request. The decision of the Associate Administrator for Administration is administratively final.

6. The fee for a search for a record or records identified by class or subject is pursuant to § 7.95 of this part.

Appendix G—Urban Mass Transportation Administration

1. *General.* This appendix describes the document inspection facilities of the Urban Mass Transportation Administration (UMTA), the kind of records that are available for public inspection and copying at these facilities, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facilities.* Document inspection facilities are maintained at the Urban Mass Transportation Administration Headquarters and each UMTA regional office. These facilities are open to the public at the prescribed times and locations:

Washington Headquarters

Urban Mass Transportation Administration, Office of Public Affairs, Room 9314, 400 Seventh Street, SW., Washington, D.C. 20590. (Working hours—8:30 a.m.—5:00 p.m. ET).

Regional Offices

Region I—Regional Administrator, UMTA, Transportation Systems Center, Kendall Square, 55 Broadway, Suite 921, Cambridge, MA 02142. 8:30 a.m.—5:00 p.m. ET. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Region II—Regional Administrator, UMTA, 26 Federal Plaza, Suite 14–110, New York NY 10278. 8:30 a.m.—5:00 p.m. ET. (New Jersey and New York).

Region III—Regional Administrator, UMTA, 434 Walnut Street, Suite 1010, Philadelphia, PA 19106. 8:00 a.m.—5:00 p.m. ET. (Delaware, District of Columbia, Maryland Pennsylvania, Virginia, and West Virginia)

Region IV—Regional Administrator, UMTA, 1720 Peachtree Road, N.W., Suite 400, Atlanta, GA 30309. 8:30 a.m.—5:00 p.m. ET. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Region V—Regional Administrator, UMTA, 300 S. Wacker Drive, Suite 1720, Chicago, IL 60606. 8:30 a.m.—5:00 p m. CT. (Illinois, Indiana, Michigan, Ohio, and Wisconsin)

Region VI—Regional Administrator, UMTA, 819 Taylor Street, Ft. Worth, TX 76102. 8:00 a.m.—5:00 p.m. CT. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Region VII—Regional Administrator, UMTA, 6301 Rockhill Road, Suite 100, Kansas City, MO 64131. 8:30 a.m.—5:00 p.m. CT. (Iowa, Kansas, Missouri, and Nebraska)

Region VIII—Regional Administrator, UMTA, 1050 17th Street, Suite 1822 Prudential Plaza, Denver, CO 80265. 8:30 a.m.—5:00 p.m. MT. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

Region IX—Regional Administrator, UMTA, 211 Main Street, Room 1160, San Francisco, CA 94105. 8:00 a.m.—4:30 p.m. PT. (Nevada, California, Arizona, Hawaii, and Guam)

Region X—Regional Administrator, UMTA, 915 2nd Street, Suite 3142, Seattle, WA 98174. 7:30 a.m.—4:00 p.m. PT. (Alaska, Idaho, Oregon, and Washington)

3. *Records available at the document inspection facilities.* The following records are located at the document inspection facilities:

(a) Final opinions (including concurring or dissenting opinions) and orders made in the adjudication of cases and issued by the Office of the Secretary.

(b) Any policy or interpretation issued by the Urban Mass Transportation Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(c) Any administrative staff manual or instruction to staff, issued by the Urban Mass Transportation Administration that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(d) An index to, and copies of, the internal and external directives of the Urban Mass Transportation Administration. The records and the index may be inspected without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

(e) Any proposed or final regulation issued by the Urban Mass Transportation Administration and any docket materials regarding these regulations. Public dockets for rulemakings are kept by the Docket Clerk, Room 9223, and are available for public inspection and copying.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record or to obtain a copy thereof, should submit the request in writing to the Director of Public Affairs, Urban Mass Transportation Administration, Room 9314, Department of Transportation Building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590. Each request must be accompanied by the appropriate fee prescribed in Subpart I of this part. Each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment is required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. *Reconsideration of determinations not to disclose records and to deny fee waivers.* Any person to whom a record is not made available within the time limits set out in Subpart C of this part, any person who has been notified that a record requested by that person will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Executive Director, Urban Mass Transportation Administration, Room 9328 of the Department of Transportation Building (Nassif Building), 400 Seventh Street, SW, Washington, D.C. 20590, for reconsideration of the request. The decision of the Executive Director is administratively final.

Appendix H—Saint Lawrence Seaway Development Corporation

1. *General.* This appendix describes the documents inspection facility of the Saint Lawrence Seaway Development Corporation, the kinds of records that are available for public inspection and copying at that facility, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facility.* The document inspection facility of the Saint Lawrence Seaway Development Corporation is maintained at its operations headquarters building in Massena, New York. This facility is open to the public during regular working hours (8:00 a.m. to 4:30 p.m. ET).

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Saint Lawrence Seaway Development Corporation.

(b) Any policy or interpretation issued by the Saint Lawrence Seaway Development Corporation, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(c) Any administrative staff manual or instruction to staff, issued by the Saint Lawrence Seaway Development Corporation, that affects any member of the public, including the prescribing of any standard, procedure or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(d) An index to the material described in (a) through (c). The records and the index may be inspected at the facility without charge. Copies of records may be obtained upon payment of fee prescribed in Subpart I of this part.

4. *Requests for identifiable records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof should submit a request in writing to the Comptroller, Office of Finance/Administration, Saint Lawrence Seaway

Development Corporation, Post Office Box 520, Massena, New York 13662.

5. Any person to whom a record is not made available within the time limits set out in Subpart C of this part; any person who has been notified that a record that that person has requested will not be disclosed; and any person who has been notified that his or her request for a fee waiver, in whole or in part, cannot be granted, may apply, in writing, to the Administrator, Saint Lawrence Seaway Development Corporation, Post Office Box 44090, Washington, D.C. 20026–4090, for reconsideration of the request. The decision of the Administrator is administratively final.

Appendix I—Maritime Administration

1. *General.* This appendix describes the location and hours of operation of the document inspection facility of the Maritime Administration (MARAD), the kinds of records that are available for public inspection and copying at the facility, and the procedures by which members of the public may make requests for reasonably described records.

2. *Document inspection facility.* The document inspection facility for MARAD is maintained in Room 7300 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590. The facility is open to the public between 9:30 a.m. and 4:30 p.m. eastern time, Monday through Friday, except legal public holidays and other special closings.

3. *Records available at the document inspection facility.* The following records are maintained at the document inspection facility:

(a) Any material issued by MARAD and published in the **Federal Register**, including regulations, for the most recent five years.

(b) Opinions, decisions, and orders of the Maritime Administrator/MARAD and of the Maritime Subsidy Board (including concurrences and dissents, if any).

(c) Any policy or interpretation issued by MARAD, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Any administrative staff manual or instruction to staff, issued by MARAD, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public as described in Subpart E of this part.

(e) An index of the records described in (b) through (d).

4. *Requests for reasonably described records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the Freedom of Information Officer, Maritime Administration, Room 7300, 400 Seventh Street, SW., Washington, D.C. 20590. If the cost of the service is known, each request must be accompanied by the appropriate fee prescribed in Subpart I of this part. Otherwise, each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment may be required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. The official having authority to make determinations on requests, pursuant to the Freedom of Information Act, is the Freedom of Information Officer or an appropriate designee.

6. *Appeal of determination not to disclose records and/or waive fees.* Any person who has been notified that a record or part of a record that has been requested will not be disclosed, or that a request for a fee waiver or reduction cannot be granted, either in whole or in part, may appeal, in writing to the Maritime Administrator, Maritime Administration, Room 7206, 400 Seventh Street, SW., Washington, D.C. 20590. The decision of the Maritime Administrator is administratively final.

Appendix J—Research and Special Programs Administration

1. *General.* This appendix describes the document inspection facilities of the Research and Special Programs Administration (RSPA), the kinds of records that are available for inspection and copying at these facilities, and the procedures by which members of the public may make requests for reasonably described records.

2. *Document inspection facilities.* Document inspection facilities are maintained at the RSPA Headquarters Office, the Materials Transportation Bureau (MTB), the Office of Aviation Information Management (OAIM), and the Transportation Systems Center (TSC). These facilities are open to the public from 9:00 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays, at the following locations:

RSPA Headquarters: Freedom of Information Officer, Research and Special Programs Administration, Room 8406, 400 Seventh, Street, SW., Washington, D.C. 20590.

Materials Transportation Bureau: Chief, Dockets Branch, Information Services Division, Room 8430, 400 Seventh Street, SW., Washington, D.C. 20590.

Office of Aviation Information Management: Chief of Data Services Branch, Data Requirements and Public Reports Division, Room 4201, 400 Seventh Street, SW., Washington, D.C. 20590.

Transportation Systems Center: Public Information Officer, Transportation Systems Center, 55 Broadway, Kendall Square, Cambridge, MA 02142.

3. *Records available through document inspection facilities.*

(a) The following records are available through the RSPA Headquarters document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Research and Special Programs Administration.

(2) Any policy or interpretation issued by the Research and Special Programs Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff, issued by the Research and Special Programs Administration, that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(4) *RSPA Orders.* RSPA orders are issued by the Research and Special Programs Administration and are used primarily to promulgate internal RSPA policy, instructions, and general guidance.

(5) *RSPA Notices.* RSPA notices are issued by the Research and Special Programs Administration and contain short-term instructions or information which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(6) Indices to the material described in (1) through (5).

(b) The following records are available through the Materials Transportation Bureau document inspection facility:

(1) Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued by the Materials Transportation Bureau.

(2) Any policy or interpretation issued by the Research and Special Programs Administration, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff, issued by the Materials Transportation Bureau, that affects any member of the public including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.

(4) Indices to the material described in (1) through (3).

(c) The following records are available through the Data Services Branch of the Office of Aviation Information Management's inspection facility:

(1) Air carrier Forms 41, 183, 217, 251, 291, 298–R, 298C, ICAO Supplemental Reports and ER–586 and Origination and Destination outputs which are maintained as a data base and reference source.

(d) The following records are available through the Transportation Systems Center document inspection facility:

(1) *RSPA Orders.* (Described in paragraph (a)(4) above).

(2) *RSPA Notices.* (Described in paragraph (a)(5) above).

(3) *TSC Orders.* TSC orders are issued by the Transportation Systems Center and are used primarily to promulgate internal TSC policy, instructions, and general guidance.

(4) *TSC Notice.* TSC notices are issued by the Transportation Systems Center and contain short-term instructions or information

which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(5) Indices to the material described in (1) through (4).

(e) The records and the indexes may be inspected at each facility without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

4. *Requests for records under Subpart F of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, should submit a request in writing to the appropriate RSPA document inspection facility as identified in paragraph 2 of this Appendix. Should that facility not have custody of the record, it will forward the request to the appropriate office. If the location of the record is not known, the request should be submitted to the Freedom of Information Officer, RSPA Headquarters, and that facility will forward the request to the appropriate office. If the cost of the service is known, each request must be accompanied by the appropriate fee as prescribed in Subpart I of this part. Otherwise, each request should be accompanied by a signed authorization to conduct the search and agreement to pay any costs incurred. Prepayment is required before delivery is made. The requester may stipulate a maximum fee which he or she will pay.

5. *Reconsideration of determination not to disclose records, and to deny fee waivers.* Any person to whom a record has not been made available within the time limits established by this part, any person who has not been given a determination that a requested record or any part thereof will not be disclosed, and any person who has been denied a fee waiver or reduction, may apply, in writing, to the Research and Special Programs Administrator, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, for a reconsideration of the request. For all purposes, including that of judicial review, the decision of the Administrator is administratively final.

[FR Doc. 85-24260 Filed 10-16-85; 8:45 am]

BILLLING CODE 4910-62-M

Notices

Federal Register
Vol. 50, No. 201
Thursday, October 17, 1985

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

October 11, 1985.

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 grounded into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 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, D.C. 20503. Attn: Desk Officer for 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.

Extension

- Agricultural Stabilization and Conservation Service Application for Approval of Facilities for Shelling, Crushing or Other Services for CCC Collateral

CCC-1057
Annually
Farms; Businesses or other for-profit; 48 responses; 8 hours; not applicable under 3504(h)
Bob Ray, (202) 382-9106

- Food and Nutrition Service

7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting/Recordkeeping
Recordkeeping; Annually; Treinnially
State or local governments; Businesses or other for-profit; Non-profit institutions; 5,256,951 responses; 951,944 hours; not applicable under 3504(h)
Marian Stroud, (703) 756-3800

Revision

- Farmers Home Administration

7 CFR 1942-A, Community Facility Loans
Forms 430-11, -24, 442-2, -3, -7, -20, -21, -22, -30, -46, 1942-8, -9, -19, -47
Recordkeeping; On occasion; Annually
State or local governments; Businesses or other for-profit; Small businesses or organizations; 95,926 responses; 237,737 hours; not applicable under 3504(h)
Jerry Cooper, (202) 382-9639

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85-24800 Filed 10-16-85; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

Flue-Cured Tobacco; 1986 National Marketing Quota and 1986 Price Support Level for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC), USDA.

ACTION: Notice of Proposed Determination.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to announce by December 15, 1985, the amount of the national marketing quota for flue-cured tobacco for the 1986-87 marketing year. In addition, the Secretary must, insofar as practicable, announce the level of price support for the 1986-87 marketing year in advance of the planting season. The public is invited to comment on the amount of the national marketing quota to be determined, other related quota factors, and level of support.

DATE: Comments must be received on or before (November 15, 1985) in order to be assured of consideration.

ADDRESS: Send comments to the Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-3391. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th & Independence Avenue, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, USDA, Room 3741-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major." The provisions of this proposed notice will not result in: (1) An annual effect of the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, state or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this proposed notice applies are: Title—Commodity Loans and Purchases;

Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the Agricultural Stabilization and Conservation Service nor the Commodity Credit Corporation are required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Marketing Quotas

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "1938 Act"), requires the Secretary to proclaim by December 15, 1985, marketing quotas for the 1986–87, 1987–88 and 1988–89 marketing years and determine and announce the amount of the national marketing quota, the national average yield goal, and the national acreage allotment for the 1986–87 marketing year. Since the 1985–86 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a referendum of farmers engaged in the 1985 production of flue-cured tobacco will be conducted within 30 days after proclamation of such national marketing quota to determine whether they favor or oppose marketing quotas for the three year period.

Section 301(b)(14)(B) of the 1938 Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The phrase "normal supply" is defined in section 301(b)(10)(B) of the 1938 Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the 1938 Act as the yearly average quantity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year (1985–86), in which the quota must be announced adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the 1938 Act as the yearly average quantity produced in the United States that was exported from the United States during the ten marketing years immediately preceding the marketing year (1985–86) in which such exports are determined adjusted for current trends in such exports.

The reserve supply level for the 1985–86 marketing year was determined to be 2,252 million pounds. This was based on a normal year's domestic consumption of 480 million pounds and a normal year's exports of 500 million pounds (See 50 FR 4548). The proposed reserve supply level for the 1986–87 marketing year is 2,132 million pounds, based on a normal year's domestic consumption of 450 million pounds and a normal year's exports of 480 million pounds.

Section 301(b)(16)(B) of the 1938 Act defines "total supply" as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1985–86 marketing year is 2,860 million pounds based upon a carryover of 2,080 million pounds and estimated marketings of 780 million pounds.

Section 317(a)(1) of the 1938 Act defines "national marketing quota" for any kind of tobacco for a marketing year as the amount of the kind of tobacco produced in the United States which the Secretary estimates will be used domestically and exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 15 percent of estimated domestic use and exports.

The amount of flue-cured tobacco produced and utilized domestically during the 1984–85 marketing year was 454 million pounds, and the amount exported was 481 million pounds, farm sales weight basis. The amount of the national marketing quota for the 1985–86 marketing year is 775 million pounds, based upon estimated domestic utilization of 428 million pounds and exports of 442 million pounds with a downward adjustment of 95 million pounds to make an orderly reduction in supplies. For the 1986–87 marketing year, utilization in the United States is estimated to be approximately 435 million pounds and exports are estimated to be approximately 440 million pounds. The total supply for the 1985–86 marketing year is 728 million pounds more than the proposed reserve supply level. However, since the maximum downward adjustment under the provisions of section 317(a)(1) of the 1938 Act is 15 percent, the amount of the adjustment desirable for effecting an orderly reduction of supplies to the reserve supply level will be limited to 131 million pounds. Accordingly, the national marketing quota is proposed to be within the range of 744 million to 775 million pounds. The national marketing quota for the 1985–86 marketing year was 775 million pounds.

Section 317(a)(2) of the 1938 Act defines "national average yield goal" for any kind of tobacco as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return to the growers. For the 1985 crop of flue-cured tobacco, the national average yield goal was determined to be 1,989 pounds per acre (See 50 FR 4548).

Section 317(a)(3) of the 1938 Act defines the "national acreage allotment" as the acreage determined by dividing the national marketing quota by the national average yield goal. The national acreage allotment for the 1985–86 marketing year was determined to be 389,643.04 acres (See 50 FR 4548).

A national acreage factor for apportioning the national acreage allotment to old farms will be determined by dividing the national acreage allotment, less the reserve for new farms and old farm corrections and adjustments, by the sum of the preliminary 1986 allotments for old farms prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations. The national average factor for the 1985–86 marketing year was .9675 (See 50 FR 4548).

A national yield factor will be obtained by dividing the national average yield goal by the national average yield. The national average yield is computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to any adjustments for overmarketings, undermarketings, or reductions which are required to be made because of marketing quota violations, adding the products, and dividing the sum of the products by the national acreage allotment. The national yield factor for the 1985–86 marketing year was .8975 (See 50 FR 4548).

For each marketing year for which acreage-poundage quotas are in effect, section 317(e) of the 1938 Act provides that a reserve may be established from the national acreage allotment in an amount equivalent to not more than three percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which no tobacco was produced or considered

produced during the immediately preceding five years. A reserve of 450 acres was established for the 1985–86 marketing year (See 50 FR 4548). The establishment of a reserve is also proposed for the 1986–87 marketing year.

Section 317(g)(1) of the 1938 Act provides that if the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, the Secretary may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the marketing quota for the farm on which the tobacco was produced. The marketing of any such tobacco in this manner has never been authorized under the acreage-poundage program and is not proposed for the 1986–87 marketing year.

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect or for which marketing quotes have not been disapproved by producers at a level which is determined in accordance with a formula prescribed in section 106 of the Agricultural Act of 1949, as amended (the "1949 Act"). With respect to the 1986 crop of flue-cured tobacco, the level of support is determined in accordance with sections 106(b), (d), and (f) of the 1949 Act.

Section 106(f)(4) of the 1949 Act provides that the level of support for the 1986 crop of flue-cured tobacco, if marketing quotes are in effect or are not disapproved by producers, shall be the level in cents per pound at which the 1985 crop of flue-cured tobacco was supported, without regard to the adjustment under subsection (g), plus or minus, respectively, the amount by which (A) the support level for the 1986 crop, as determined under section 106(d) of the 1949 Act, is greater or less than (B) the support level for the 1985 crop, as determined under section 106(b) of the 1949 Act, as that difference may be adjusted by the Secretary under section 106(b) of the 1949 Act if the support level under clause (A) is greater than the support level under clause (B). Accordingly, under section 106(f)(4) of the 1949 Act, if marketing quotes are in effect or are not disapproved by producers, the support level for the 1986 crop of flue-cured tobacco will be the 1985 level, adjusted by the difference between (plus or minus) the 1986 "basic support level" and the 1985 "basic support level".

Section 106(b) of the 1949 Act provides, if marketing quotas are in effect or are not disapproved by producers, that the "basic support level" for any year is determined by multiplying the support level for the 1959 crop of flue-cured tobacco (55.5 cents per pound) by the ratio of the average of the index of prices paid by farmers including wage rates, interest, and taxes (referred to as the "parity index") for the three previous calendar years to the average index of such prices paid by farmers, including wage rates, interest, and taxes for the 1959 calendar year (298). For the 1986-crop year, the average parity indexes for the three previous yeas are: 1983—1104; 1984—1127; and 1985—1125 (estimated based on 7-month's data). The preliminary average of the parity indexes for these years is 1119 and the ratio of the 1983–85 index to the 1959 index is 3.76. Accordingly, the preliminary "basic support level" for 1986 flue-cured tobacco is estimated to be 208.7 cents per pound. For the 1985-crop year, the average parity indexes used to calculate the 1985 "basic support level" were: 1982—1078; 1983—1105; and 1984—1127. The ratio of the 1982–84 index to the 1959 index equaled 3.70. Thus, the "basic support level" for the 1985 crop of flue-cured tobacco equalled 205.4 cents per pound. The difference between the "basic support levels" for the 1985 and 1986 crops of flue-cured tobacco is estimated to be 3.3 cents per pound.

Section 106(d) of the 1949 Act provides that the Secretary may reduce the level of support which would otherwise be established for any grade of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers, which the Secretary determines will likely be in excess supply. In addition, the weighted average of the level of support for all eligible grades of such tobacco must, after such reduction, reflect not less than 65 percent of the increase in the support level for such kind of tabacco which would otherwise be established under section 106 of the 1949 Act if the support level is higher than the support level for the preceding crop. Before any such reduction is made, the Secretary must consult with the associations handling price support loans and consideration must be given to the supply and anticipated demand of such tobacco, including the effect of such reduction on other kinds of quota tobacco. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

As previously mentioned, supplies of virtually all grades of flue-cured tobacco are excessive (i.e., 728 million pounds above the reserve supply level), with most of the excess supply consisting of tobacco pledged as collateral for price support loans.

Accordingly, if marketing quotas are in effect or are not disapproved by producers, it is proposed that the 1986 price support level for flue-cured tobacco be 172.0 cents per pound. This is an increase of 2.1 cents per pound from the 1985 support level of 169.9 cents per pound, or 65 percent of the increase, i.e., 3.3. cents per pound, that otherwise would be established.

Proposed Determinations

Accordingly, the Secretary of Agriculture proposes to determine and announce with respect to the 1986–87 marketing year for flue-cured tobacco:

(1) A reserve supply level in the amount of 2,132 million pounds.

(2) A national marketing quota in an amount within the range of 744–775 million pounds.

(3) A national average yield goal of 1,989 pounds.

(4) A reserve from the national acreage allotment in an amount within a range of 100 acres to 1,000 acres.

(5) The marketing of N2 or other grades of tobacco which are not eligible for price support, without payment of penalty or deduction from subsequent quotas, will not be authorized.

(6) If marketing quotas are in effect or are not disapproved by producers, a price support level limited to 65 percent of the increase that would have been established otherwise in accordance with section 106 of the 1949 Act, which is currently estimated to be 172.0 cents per pound.

The national acreage allotment, the national acreage factor, and the national yield factor will be computed using the final determinations which will be made with respect to items set forth in (1) through (4) above.

It is also proposed that the referendum be conducted by mail ballot rather than at polling places in accordance with 7 CFR Part 717.

Comments are requested with respect to the foregoing proposed determinations.

(Secs. 301, 313, 317, 375; 52 Stat. 38, as amended, 79 Stat. 66, as amended, 52 Stat. 66, as amended, (7 U.S.C. 1301, 1313, 1314c, 1375);

Secs. 106, 406; 74 Stat. 6, as amended, 63 Stat. 1055 (7 U.S.C. 1445, 1426)

Signed at Washington, DC on October 11, 1985.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service, Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85-24754 Filed 10-11-85; 12:25 pm]

BILLING CODE 3410-05-M

Food Safety and Inspection Service

[Docket No. 85-020N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from April 1, 1985, through September 30, 1985.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
080	Labeling Bearing Phrase "Product of U.S.A.," April 16, 1985	When can the phrase "Product of U.S.A." be shown on labeling?	Policy Memo 009.
081	Permitted Processing Procedures for Marinated Products, April 16, 1985.	What processing procedures must be used for a meat or poultry product to be labeled as "marinated"?	Policy Memos 066, 044, 042.
082	Labeling of Institutional and Wholesale Type, Large, Immediate Containers, May 1985.	Is it necessary that all mandatory information appear on the principal display panel of institutional and wholesale, large-size, immediate containers?	9 CFR 317.2(c) 381.116(a).
083	Check-Off Blocks on Labeling, May 1985	Should check off blocks on immediate container labeling be used for identifying products that look alike or are different in compositions?	N/A.
084	Cooked Corned Beef Products and Cured Pork Products with Added Substances, May 17, 1985.	Can cooked corned (cured) beef products and cooked cured pork products not covered by the Protein Fat Free (PFF) regulations that weigh more than the weight of the fresh uncured article be prepared and how should they be labeled?	9 CFR 319.100, 319.101, 319.102, Policy Memo 079.
085	Nutrition Labeling Verification	What is required to assure the continued accuracy of nutrition labeling, including sodium content information?	Policy Memo 074.
086	Nutrition Labeling, May 23, 1985	What are the guidelines for the approval of nutrition labeling on meat and poultry products?	Policy Memos 039, 007, 049C
087	Word Size in Labeling of Product Names, Fanciful Names, and Descriptive Names, May 23, 1985.	In labeling mean and poultry products, what restrictions should be placed on the size of words used in product names, fanciful names and descriptive names?	N/A.
088	The Labeling of Meat and/or Poultry Products with the Term "Nuggets," May 23, 1985.	What guidelines should be followed when approving labeling for products which includes the term "nuggests"?	Policy memo 067, 9 CFR 317.2(c)(1), 381.117(a), 381.117(d).
089	Use of the Term "Breaded" on labels for "Fritters," May 29, 1985.	Is it permissible to use the term "breaded" in conjunction with product name "fritters"?	9 CFR 319.880, 381.166.
057-A	Labeling Turkey Ham Products Containing Added Water, September 16, 1985.	What is the appropriate labeling for a Turkey Ham product that contains added substances?	9 CFR 381.171, (Replaces Policy Memo 057.)
061-A	Corn Dogs, September 16, 1985	In labeling corn dogs prepared using poultry franks, how would the kind name "chicken" or "turkey" be shown?	Replaces Policy Memo 061.)
067-A	Word Size in Labeling of Product Names and Fanciful Names, September 16, 1985.	In labeling meat and poultry products, what restrictions should be placed on the size of words used in product names and fanciful names?	(Replaces Policy Memo 067.)
090	Protective Coverings	Under what circumstances can immediate containers be considered protective coverings?	9 CFR 318.17, 317.1.
091	Ground Beef Chuck and Ground Beef Round, September 16, 1985.	What guidelines should be followed in the review and approval of labeling for "Ground Beek Chuck" and "Ground Beef Round"?	9 CFR 319.15(a), MPI Bulletin 82-67.

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on: October 7, 1985.

Margaret O'K. Glavin,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 85-24749 Filed 10-16-85; 8:45 am]

BILLING CODE 3410-DM-M

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of the fee for dairy import licenses for the 1986 quota year.

SUMMARY: This notice announces that the fee to be charged for the 1986 quota year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles which are subject to quotas proclaimed under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended, will be $62.00 per license.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616–South Building, U.S. Department of Agriculture, Washington, DC 20250 or telephone at (202) 447–5270.

SUPPLEMENTARY INFORMATION: Regulations promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.33 provide for the issuance of licenses to importers of certain dairy articles which are subject to quotas proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Those dairy articles may only be entered into the United States by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of such licenses and the regulations.

The licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country. The use of licenses by the license holder to import dairy articles is monitored by the Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture (the "Licensing Authority") and the U.S. Customs Service.

7 CFR 6.33(a) provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to reimburse the Department of Agriculture for the costs of administering the licensing system under this regulation. The fee is to be based upon the total costs to the Department of Agriculture of administering the licensing system during the calendar year preceding the year for which the fee is to be charged, divided by the average number of licenses issued per year for the three years preceding the year for which the fee is to be assessed.

7 CFR 6.33(b) provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be filed with the **Federal Register.** Accordingly, this notice sets out the fee for the licenses to be issued for the 1986 calendar year.

Notice

The total cost to the Department of Agriculture of administering the licensing system during 1985 has been determined to be $212,944. Of this amount, $153,294 represents the cost of the staff and supervisory hours devoted directly to administering the licensing system during 1985 (total personnel costs for the Import Licensing Group of the Foreign Agricultural Service equaled $128,294; a proportionate share of the supervisory costs devoted directly to administering the licensing system equaled $25,000); $35,650 represents the cost of the computer on-line entry system used to monitor the use of licenses during 1985; and $24,000 represents other miscellaneous costs, including travel, postage, and an in-house computer system. The average number of licenses issued for the three years immediately preceding 1986 has been determined to be 3,448.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 1986 calendar year, in accordance with the regulations codified at 7 CFR 6.20–6.33, will be $62.00 per license.

Issued at Washington, DC the 25 day of September, 1985.

Philip J. Christie,

Licensing Authority.

[FR Doc. 85–24750 Filed 10–16–85; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Environmental Impact; Little River Watershed, Georgia

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little River Watershed, Tift, Turner, Colquitt, and Worth Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: B.C. Graham, State Conservationist, Soil Conservation Service, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; telephone: 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, B.C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns are rill, sheet, and gully erosion affecting cropland. The planned works of improvement include cost sharing and accelerated technical assistance to increase the application of land treatment measures such as stripcropping, terraces, grassed waterways, water and sediment control basins, diversions, contouring, and conservation cropping systems.

The Finding of No Significant Impact (FONSI) and a copy of the Environmental Assessment have been forwarded to the Environmental Protection Agency, Federal, State, and local agencies, and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. B.C. Graham. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 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.)

Dated: October 10, 1985.

B.C. Graham,

State Conservationist.

[FR Doc. 85–24745 Filed 10–16–85; 8:45 am]

BILLING CODE 3410–16–M

ARMS CONTROL AND DISARMAMENT AGENCY

Visiting Scholars Program

The U.S. Arms Control and Disarmament Agency (ACDA) will conduct a competition for selection of visiting scholars to participate in ACDA's activities during the 1986–87 school year.

Section 28 of the Arms Control and Disarmament Act (22 U.S.C. 2568)

provides that "A program for visiting scholars in the field of arms control and disarmament shall be established by the Director [of the U.S. Arms Control and Disarmament Agency] in order to obtain the services of scholars from the faculties of recognized institutions of higher learning."

The law states that "The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer." * * * Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the Agency." In honor of the first Director of ACDA, William C. Foster, who served from the inception of ACDA in 1961 to 1969 and died on October 15, 1984, scholars are known as William C. Foster Fellows.

ACDA initially implemented this program by competitively selecting six visiting scholars for the 1984–85 school year to perform specific activities at ACDA for which their services had been identified as being needed. This process was repeated for the 1985–86 school year and it is intended that the process will be used again this year with one-year assignments beginning at a mutually agreeable time during the period from July 1986 to mid September 1987 for the positions in ACDA's four bureaus described in the Appendix to this announcement. Note that the emphasis is on the expertise and service which the visiting scholars can provide rather than on general interest in arms control and the pursuit of the scholars' own research.

It is planned that the visiting scholars will be assigned by detail and compensated in accordance with the Intergovernmental Personnel Act. In addition to pay based on their regular salary rates, the visiting scholars will receive travel to and from the Washington, D.C. area for their one-year assignment and either per diem allowance during the one-year assignment or relocation costs.

Visiting scholars must be citizens or nationals of the United States and on the faculty of a recognized institution of higher learning. Prior to appointment they will be subject to full-field background security and loyalty investigation for a top secret security clearance including access to Restricted Data, as required by section 45 of the Arms Control and Disarmament Act. Visiting scholars also will be subject to applicable Federal conflict of interest laws and standards of conduct.

Selections will be made without regard to race, color, religion, sex, national origin, age, or physical handicap which does not interfere with performance of duties, and all qualified persons are encouraged to apply. Applications should be in the form of a letter indicating the positions(s) in which the applicant is interested and the perspective and expertise which the applicant offers. The letter should be accompanied by a curriculum vitae, and any other materials such as letters of reference and samples of published articles which the applicant believes should be considered in the selection process. (If published materials are submitted, it is requested that they be provided in twelve copies, if possible.)

Applications, and any requests for additional information, should be sent to: Visiting Scholars Program, Attention: Personnel Officer, Room 5722, U.S. Arms Control and Disarmament Agency, Washington, DC 20451. The application deadline for assignments for the 1986–87 school year is January 31, 1986, subject to extension at ACDA's option. Announcement of selection, subject to security clearance procedures, is expected around March 1, 1986.

Dated: October 9, 1985.

William J. Montgomery,

Administrative Director.

Appendix

A. Visiting Scholar Assignments to the Bureau of Multilateral Affairs of ACDA

1. Description of the Bureau of Multilateral Affairs. The Bureau of Multilateral Affairs (MA) has primary responsibility within ACDA for arms control issues dealt with in multilateral fora. The Conference on Disarmament, the Mutual and Balanced Force Reduction negotiations, the Conference on Disarmament in Europe, and the United Nations General Assembly are the most important examples. MA provides both technical backstopping and diplomatic support to these substantive activities as well as to other negotiations which seek to ban radiological weapons, to study negative security assurances, to limit military expenditures, to research nuclear weapons free zones, and to eliminate chemical and biological weapons.

2. Nature of Assignment (MA/ISP). The international Security Program Division of the Bureau of Multilateral Affairs (MA/ISP) has responsibility for the Conference on Disarmament (CD) which stated life in 1979 as a multilateral arms control negotiating forum in Geneva, although its ancestry dates back to the Ten Nation Disarmament Committee of the late 1950's. The CD now consists of 40 members, including most members of the Warsaw Pact and NATO as well as 21 non-aligned nations. Its annual session is divided into two parts, February–April and June–August. Active items on its agenda include chemical weapons (the U.S. submitted a draft convention to ban all chemical weapons in 1984), radiological weapons, outer space and nuclear testing.

The First Comittee of the United Nations General Assembly is the other major forum for which MA/ISP has responsibility. The U.S. delegation coordinates the US position on disarmament resolutions with other Western and non-aligned delegations, as appropriate, and participates in the general debate. The General Assembly has no direct authority over the CD, but the CD transmits annual reports on its work to the United Nations, and the First Committee may pass resolutions recommending courses of action to the CD.

A visiting scholar assigned to MA/ISP would study the CD and General Assembly forums, in part through the daily responsibilities of interagency coordination and delegation work. The Visiting Scholar would study selected issues on the CD agenda to assess negotiating possibilities for the U.S.

3. Candidate qualifications (MA/ISP). The candidate should have a general familiarity with the United Nations system or other multilateral organizations. Also valuable would be previous experience with specific arms control issues, particularly nuclear testing and chemical weapons.

4. Nature of Assignments (MA/ESN). The Conference on Confidence-and Security-Building Measures and Disarmament in Europe, commonly known as the Conference on Disarmament in Europe (CDE), represents the security portion of the Conference on Security and Cooperation in Europe (CSCE). The CDE has, as its mandate, a two-stage task: First, to agree on a set of confidence- and security-building measures (CSBMs), and second, to negotiate disarmament measures. The first stage of the conference is being held in Stockholm. If and when the CDE proceeds to the second stage will depend on the outcome of the first stage. The Stockholm conference will report on its results to the CSCE Review Meeting which will be held in Vienna, Austria, beginning in November 1986. It is possible that the Stockholm conference will reach an agreement by that time on

a set of CSBMs, and that the Review Conference will then consider whether the CDE should proceed to a discussion of disarmament measures.

In the meantime, the talks on Mutual and Balanced Force Reduction (MBFR) continue in Vienna, Austria, as they have since 1973, without notable progress. The occurrence of the two conferences in Vienna raises questions about how the question of conventional force arms control in Europe might best be addressed.

A visiting scholar assigned to the European Security Negotiations Division of the Bureau of Multilateral Affairs (MA/ESN) would analyze the MBFR and CDE forums for the purpose of assessing their future roles within the larger framework of U.S. national security policies. In addition, the scholar would study the problems and the possibilities of conventional arms control in Europe.

5. Candidate Qualifications (MA/ESN). Specific useful background for a candidate would include knowledge of European political and military issues and familiarity with NATO defense doctrine. Previous experience and research on arms control and national security issues would be valuable.

B. Visiting Scholar Assignments to the Bureau of Verification and Intelligence of ACDA

1. Description of the Bureau of Verification and Intelligence. The Bureau of Verification and Intelligence (VI) has responsibility for ACDA's work in verification, compliance, intelligence, operations analysis, and computer support. VI provides the support in these subject areas for the strategic and theater nuclear arms control negotiations; the Standing Consultative Commission; the Anti-Balistic Missile, SALT I and SALT II Treaties, the Limited Test Ban Treaty and Threshold Test Ban Treaty and the agreements on chemical and biological weapons.

2. Nature of the Assignment. VI develops verification requirements for arms control agreements being negotiated; review compliance with existing arms control agreements; conducts operations analysis of relevant arms control issues and Soviet views thereof; and evaluates the potential of various collection technologies for monitoring compliance with provisions of arms control agreements. A Visiting Scholar would be expected to participate in one or more of these activities by performing studies, drafting policy papers, and/or performing analyses both for use within ACDA and for coordination with other agencies. In some cases, the Visiting Scholar would represent ACDA on interagency working groups and would be called upon to exercise a relatively high degree of individual judgment.

Subject areas where a Visiting Scholar might contribute include: verification of a treaty on chemical weapons, verification of limits of space-based weapons and weapons which can attack space-based military assets, compliance with existing—and verification of proposed—treaty limitations on ballistic missiles and nuclear testing, or analysis of Soviet views of stability and their impact on verification.

3. Candidate Qualifications. Because of the complex technical and analytical content in these areas, VI seeks a physical scientists, operations analyst, or expert in Soviet strategy and doctrine with a broad background. Specific useful background for a candidate would include: knowledge of basic physics, chemistry, aerospace systems, operations research, or Soviet strategic studies. The Visiting Scholar should have facility inanalytical writing and general communication and a proven ability to innovate. Specific background in the areas of VI responsibility would be a value but is not a requirement.

C. Visiting Scholar Assignments to the Bureau of Strategic Programs of ACDA.

1. Description of the Bureau of Strategic Programs. The Bureau of Strategic Programs (SP) has responsibility for support of the Director of ACDA on arms control matters concerning limitations on U.S. and Soviet strategic and theater nuclear offensive forces and defensive forces. This includes providing technical and policy guidance to the Director in these areas and participating in the policy deliberation of Interagency Groups responsible for these areas. SP also has responsibility for ACDA's participation in the Nuclear and Space Talks (NST) in Geneva, other bilateral U.S.-U.S.S.R. arms control negotiations, and other defense related matters including ACDA participation in U.S. decisions regarding research on ballistic missile defenses. NST includes strategic and theater nuclear arms control and defense and space issues. Other bilateral discussions include meetings of the Standing Consultative Commission (SCC) and preparation for the periodic Anti-Ballistic Missile (ABM) Treaty reviews. SP also has interagency responsibility for backstopping of the NST negotiations, the SCC, and ABM Treaty reviews. SP has two divisions: Strategic Affairs and Theater Affairs.

2. Nature of the Assignment. A visiting scholar assigned to SP would assist in policy formation in one or more of the areas cited above. Because of the high technical content in these areas, SP seeks a physical scientist with a broad theoretical or applied background.

The visiting scholar's responsibilities would include drafting position papers, background studies, and policy analyses, both for use within ACDA and for coordination with other agencies such as the Central Intelligence Agency, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Department of State, and Interagency Groups. In some cases, the individual would represent ACDA on interagency working groups. This visiting scholar would be called upon to exercise a relatively high degree of individual judgment in developing policy recommendations. There may be an opportunity to volunteer to serve on the staff of U.S. delegations to arms control negotiations. The most likely area of concentration for the visiting scholar would be strategic arms reduction policy, but this could vary according to the scholar's background and the needs of ACDA/SP.

3. Candidate Qualifications. Specific useful background for a candidate would include: knowledge of basic physics, facility in concise writing, general communication skills, and proven ability to innovate. Background in areas of SP responsibility would be of value but is not a requirement.

D. Visiting Scholar Assignment to the Bureau of Nuclear and Weapons Control of ACDA

1. Description of the Bureau of Nuclear and Weapons Control. The Bureau of Nuclear and Weapons Control (NWC) has responsibility for nuclear non-proliferation issues, including the review of nuclear exports, support of the international safeguards system, and the promotion of the Nuclear Non-Proliferation Treaty and the Treaty of Tlatelolco. NWC also assesses the arms control implications of proposed arms transfers and technology transfers, and prepares Arms Control Impact Statements on U.S. programs and guides them through the interagency review process. In addition, NWC is responsible for ACDA's economic analysis work and coordinates publication of *World Military Expenditures and Arms Transfers.*

2. Nature of the Assignment. A visiting scholar assigned to NWC would work on selected topics within that Bureau's responsibility, with emphasis on issues raised by the interrelationships among U.S. policies on nuclear nonproliferation, the transfer of conventional arms, and the export of missile technology. The visiting

scholar's responsibilities would include the preparation of analyses of these issues and recommendations on their implications for arms control.

The position would involve close coordination with officials in the Departments of State and Defense and other concerned agencies. In carrying out assigned duties, the individual would need to exercise initiative and function effectively with minimum direct guidance and supervision.

3. Candidate Qualifications. Desirable attributes for a candidate should include an understanding of the role of arms control in national security planning, familiarity with weapons characteristics and capabilities, knowledge of political-military conditions in developing regions, a highly-developed analytical ability, and facility in written and oral communications. Because of the complex political-military issues involved, the individual should have a strong background in national security studies or international relations.

[FR Doc. 85-24751 Filed 10-16-85; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain.

As an amendment of the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges, Piher International Corp. has been authorized to make certain exports to Canada, Singapore, and Hong Kong, most recently by the Order of July 8, 1985, 50 FR 28603 (July 15, 1985). Such authorization for Canada and Singapore was issued first in the Order of April 9, 1982, 47 FR 16819 (April 20, 1982), and has been extended without interruption at several-month intervals. An authorization for certain exports to Hong Kong was added by the Order of June 19, 1985, 50 FR 26242 (June 25, 1985).

At the same time that Piher International Corp. first applied for its authorization for Canada and Singapore, it also moved that it be deleted from the list of related parties named in Paragraph III of the Order of February 25, 1982. Consideration of that motion is still continuing. Each authorization for certain exports to Canada, Singapore, and Hong Kong provided that Piher International Corp. could apply for an extension thereof if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of its motion for its deletion from the list of related parties.

Piher International Corp. has now applied for an extension of its authorization to make certain exports to Canada, Singapore, and Hong Kong, and has applied as well for Taiwan to be added to these permitted destinations. Piher International Corp. has asserted that failure to obtain the extension and the addition of Taiwan will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports, and for the addition to such authorization of Taiwan, is justified, and that granting this extension and addition will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by authorizing Piher International Corp., with addresses at 903 Feehanville Drive, Mt. Prospect, Illinois 60056, and at Post Office Box 91969, Chicago, Illinois 60680, to export variable resistors and potentiometers to its customers in Canada, Singapore, Hong Kong, and Taiwan in fulfillment of shipments scheduled through November 1985 in the documents filed by Piher International Corp. in support of its Application for this extension and addition, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Parts 368-399 (1985)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after November 1985 should a continuing consideration of its aforesaid motion for its deletion from the list of related parties entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective October 1, 1985.

Dated: October 10, 1985, 3:20 pm EDT.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-24781 Filed 10-16-85; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

Financial Assistance Application Announcements; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $1,194,117 for the project performance period of May 1, 1986 to April 30, 1987. The MBDC will operate in the Los Angeles Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $1,015,000 in Federal funds and a minimum of $179,117 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I. D. Number for this project will be 09-10-86009-01.

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 in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (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 the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 15018, San Francisco, California 94102, November 14, 1985 at 10:00 a.m.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6735.

Closing Date: The closing date for applications is December 12, 1985. Applications must be postmarked on or before 5:00 pm-December 12, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLMENTARY 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))

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 85-24752 Filed 10-16-85; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Precision Measurement Grants

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcing continuation of the NBS Precision Measurement Grants Program.

SUMMARY: The purpose of this notice is to inform potential applicants that the National Bureau of Standards (NBS) is continuing a $180,000 per year program of research grants, formally titled Precision Measurement Grants, to scientists in U.S. academic institutions for significant, primarily experimental research, in the field of precision measurement and fundamental constants. Applications in the form of pre-proposal summaries are now being solicited for two new NBS Precision Measurement Grants to be awarded beginning October 1, 1986 (fiscal year 1987). Each grant is in the amount of $30,000 per year, renewable at NBS' option for up to two additional years, for a total of $90,000. Candidate's pre-proposal summaries with biographical information must reach NBS by February 1, 1986, to be considered for the FY 87 awards.

FOR FURTHER INFORMATION CONTACT: Dr. Barry N. Taylor, Chairman, NBS Precision Measurement Grants Committee, Bldg. 220, Rm. B258, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-2701.

SUPPLEMENTARY INFORMATION: As authorized by section 2 of the Act of March 3, 1901 as amended (15 U.S.C. 272), the National Bureau of Standards (NBS) conducts directly, and through grants and contracts, a basic and applied research program in the general area of precision measurements and the determination of fundamental constants of nature. As part of this research program, NBS has since 1970 awarded Precision Measurement Grants to scientists in U.S. academic institutions for significant, primarily experimental research in the field of precision measurement and fundamental constants.

NBS is now soliciting applications for two new $30,000 grants to be awarded for the period October 1, 1986 through September 30, 1987 (fiscal year 1987). At NBS' option, each grant may be renewed for up to two additional years for a total of $90,000.

NBS sponsors these grants to encourage in the colleges and universities fundamental research in the field of measurement science, and to foster contacts between NBS scientists and those researchers in the academic community who are actively engaged in such work. The Precision Measurement Grants are also intended to make it possible for workers in academic institutions to pursue new measurement ideas for which other sources of support may be difficult to find.

Research Topics/Who May Apply

There is a great deal of latitude in the kind of research projects which will be considered for support under the Precision Measurement Grants program. The key requirement is that they generally support NBS work in the field of basic measurement science, for example:

Experimental and theoretical studies of fundamental physical phenomena which may lead to improved or new measurement methods and standards to meet existing or anticipated needs;

The determination of important fundamental physical constants, especially those which may serve as reference standards for measurement;

The development of new standards for physical measurement and the development of transfer standards and standard measuring instruments; and

General research and development on basic measurement techniques and instrumentation.

In general, proposals for experimental research will be given preference over proposals for theoretical research because of the greater expense of experimental work. Proposals from workers at the assistant and associate professor level who have some record of accomplishment are especially encouraged in view of the comparative difficulty aspiring researchers have in obtaining funds.

Typical projects which have been funded through the NBS Precision Measurement Grants program include:

"Precision mechanical rotations for fundamental measurements," Rogers C. Ritter, University of Virginia.

"Measurement of fundamental constants using three-level resonances in hydrogen," Carl E. Wieman, University of Michigan.

"Quantum limited measurement of a harmonic oscillator," William C. Oelfke, University of Central Florida.

"Fine-Structure constant determination using precision Stark spectroscopy," Michael G. Littman, Princeton University.

"Eötvös experiment-cryogenic version," D.F. Bartlett, University of Colorado.

"The quantized Hall resistance as a primary resistenace standard," D. C. Tsui, Princeton University

"A test of local Lorentz invariance using polarized ^{21}Ne nuclei," T. E. Chupp, Harvard University.

Procedures

To simplify the proposal writing and evaluation process, the following selection procedure will be used:

Candidates are requested to submit to NBS by February 1, 1986.

Pre-proposal Summary with a concise, descriptive title (including the name of the applicant and his/her institution) outlining the Objectives of the proposed research; the Motivation for the research (why you believe the work to be important); and the general technical Approach (including an analysis of relevant parameters such as sensitivity and noise level where appropriate, and some indication of what you expect to accomplish in the potential three-year time period covered by the grant). If the work is or is expected to be supported by other sources of funding, the summary should make clear just what the NBS funds will enable the prospective grant recipient to achieve that could not be achieved with the other funds. Candidates should list all pending proposals and the amount and source of their current funding. The

length of the summary must not exceed five double-spaced pages. A *Biographical Sketch*, including a list of the applicants' most important publications, should be appended to the end of the summary.

Ten copies should be sent to Dr. Barry N. Taylor at the address shown above.

On the basis of this material, four to eight semi-finalist candidates will be selected by the NBS Precision Measurement Grants Committee and the Outside Advisory Committee to submit more detailed proposals. The same committees will evaluate the detailed proposals, and on the basis of their evaluation, the two grantees for fiscal year 1986 will be selected. The semi-finalists will be notified of their status by March 15, 1986, and will be requested to submit their full proposals to NBS by May 1, 1986. The successful grantees will be notified of their selection by August 15, 1986.

The criteria to be used in evaluating the pre-proposals and full proposals include:

1. Importance of the proposed research to science—does it have the potential of opening up a whole new area of activity or will it answer some currently pressing question?

2. The relationship of the proposed research to measurement science—is there a possibility that it will lead to a new or improved basic measurement unit, physical standard, or measurement method? (Or to a better understanding of important, but already existing, measurement units, physical standards, or measurement methods?)

3. The feasibility of the research—is it likely that significant progress can be made in three years' time with the funds and personnel available?

4. The past accomplishments of the applicant—is the quality of the research previously carried out by the prospective grantee such that there is a high probability that the proposed research will be successfully carried out?

Technical Questions concerning the NBS Precision Measurement Grants program may be directed to the above address or call Dr. Taylor on (301) 921-2701. If you have and doubts about whether your proposed topic falls within the subject areas of the program, it is suggested that you contact Dr. Taylor before preparing your pre-proposal summary in order to avoid unnecessary effort.

Administrative Information: Contact, Grants Office, Office of Acquisition and Assistance Division, Building 301/Rm. B141, National Bureau of Standards, Gaithersburg, MD 20809, (301) 921-2971.

Dated: October 10, 1985.

Raymond G. Kammer,

Acting Director.

[FR Doc. 85-24766 Filed 10-16-85; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Approval for Financing Under the Arms Export Control Act of Direct Commercial Contracts Between Private Suppliers and Foreign Governments

AGENCY: Defense Security Assistance Agency.

ACTION: Notice of general statement of policy.

In accordance with 32 CFR Part 363 the Director, Defense Security Assistance Agency (DSAA) notified all foreign governments to which loans are made under the authority of section 23 or section 24 of the Arms Export Control Act, Pub. L. 90-629, as amended [22 U.S.C. 2763, 2764] of policies and procedures for the use of Foreign Military Sales (FMS) loans for direct commercial contracts between United States industry and foreign governments. The policies and procedures include the following paragraphs.

FMS loan financing may be used, when approved on a case-by-case basis by DSAA, for the purchase of defense articles, defense services, and design and construction services from U.S. contractors on a direct commercial basis. However, as indicated in the FMS Credit Agreement to which our governments are parties, the U.S. Government is under no obligation to approve any specific commercial contract for FMS financing. In addition to noncomplicance with these guidelines, the following paragraph provides one instance in which a contract would not be financed.

The Defense Security Assistance Agency is not staffed in a manner which would enable it to conduct independent debarment/suspension proceedings. Therefore, with respect to approval of financing for U.S. contractors, DSAA relies heavily on the experiences of other U.S. Government agencies which are empowered to debar/suspend contractors for cause. Contracts will not be approved for U.S. suppliers which are included in the U.S. General Services Administration List of Debarred, Suspended, and Ineligible Contractors, the U.S. Commerce List of Denial Orders Currently Affecting Export Priviliges or similar determinations in which the U.S. Department of State has made certain contractors ineligible to export material under the International Traffic in Arms Regulations [22 CFR Subchapter M]. Should contracts involving such suppliers be submitted to DSAA, they will be returned to the prospective purchaser without action with the appropriate indication as to the Agency which has initiated the action of debarment/suspension. A copy of the letter will be furnished to the contractor involved. The action required before such contracts can be considered for FMS financing is for the U.S. contractor involved to take appropriate administrative or legal steps to remove his organization from the debarment/suspension list. Such action should be taken directly with the Agency which has debarment responsibility.

The action involves a military or foreign affairs function of the United States and a matter relating to public loans within the scope of 5 U.S.C. 553(a).

FOR FURTHER INFORMATION CONTACT: Mr. Jerome H. Silber, DSAA General Counsel, (202/697-8000).

October 10, 1985.

Patrica H. Means,

OSD Federal Register Liasion Officer, Department of Defense.

[FR Doc. 85-24739 Filed 10-16-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Defense Intelligence College; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College has been scheduled as follows:

DATES: Tuesday-Thursday, November 12-14, 1985, 9:00 a.m. to 4:00 p.m., November 12 and 13; 8:00 a.m. to 11:30 a.m., November 14.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. De Gross, Provost, DIA Defense Intelligence College, Washington, D.C. 20301-6111 (202/373-3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the

mission assigned to the Defense Intelligence College.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1985.

[FR Doc. 85-24807 Filed 10-16-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on On-Site Inspection; Rescheduling of Advisory Committee Meeting

The meeting date for the Defense Science Board Task Force on On-Site Inspection scheduled for 15 October 1985 in the Pentagon, Arlington, Virginia as published in the **Federal Register** (Vol. 50, No. 183, Friday, September 20, 1985, FR Doc. 85-22522) has been changed to 29 October 1985. In all other respects the original notice remains unchanged.

Patricia H. Means,

ODS Federal Register Liaison Officer, Department of Defense.

October 11, 1985.

[FR Doc. 85-24808 Filed 10-16-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Automotive Propulsion Research and Development; Automotive Technology Development Contractors' Coordination Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold the Automotive Technology Development Contractors' Coordination Meeting on automotive propulsion systems, and members of the public are hereby invited to attend as observers. Papers will be presented on the current state of research and development on automotive propulsion systems and on alternative fuels.

DATES: October 21-24, 1985.

ADDRESS: Hyatt Regency Dearborn Hotel, Dearborn, Michigan.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Marie Zerega, U.S. Department of Energy, Mail Station 5G-046, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252-8014.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the notice of proposed regulation (43 FR 31929, 21932 (July 24, 1978) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15 U.S.C. 2703(f) (1970), in which the Department of Energy DOE) announced its intention to open meetings to public attendance, section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The final regulations (43 FR 55228, November 24, 1978) provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented.

Below is a preliminary agenda:

Date and topic	Session
October 21:	
Welcome and Introduction	Morning.
Stirling Engine Systems and Technology	Morning, afternoon.
October 22:	
Heavy Duty Transport Technology	Morning.
Automotive Gas Turbine Engine Technology	Afternoon.
October 23:	
Ceramic Materials Research and Development	Morning, afternoon.
October 24:	
Alternative Fuels Utilization	Morning, afternoon.

Meeting registration is scheduled to be held from: 8:00 a.m.-3:00 p.m. (Monday October 21 through Thursday October 24).

Registrants at the meeting pay $85 registration fee which includes admission to all technical sessions, refreshments, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials.

However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

Issued in Washington, DC, October 1, 1985.

Donna R. Fitzpatrick,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 85-24811 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY,

Economic Regulatory Administration

Amended Notice of Proposed Remedial Order to Tri-Service Drilling Co.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of an Amended Proposed Remedial Order which was issued to Tri-Service Drilling Company. This Amended Proposed Remedial Order alleges pricing violations in the amount of $395,837.89 plus interest, in connection with the sale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period September 1, 1973 through December 31, 1976.

A copy of the Amended Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue SW, Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the: Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F-078, 1000 Independence Avenue SW, Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon the person to whom the Proposed Remedial Order is directed; upon:

Ben L. Lemos, Director, Office of Field Operations, Economic Regulatory Administration, U.S. Department of Energy, 1403 Slocum, 2d Floor, Dallas, Texas 75207

and upon:

Carl A. Corrallo, Esquire, Chief Counsel for Administrative Litigation,

Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-15, 1000 Independence Avenue SW, Washington, DC 20585.

Issued in Washington, DC on the 3rd day of October 1985.

Avrom Landesman,

Director of Enforcement Programs Economic Regulatory Administration.

[FR Doc. 85-24765 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket PP-83EA]

Issuance of an Order Authorizing the Export of Electricity to Canada; Fairfield Energy Venture and Maine Public Service Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of issuance of an order authorizing new exports of electricity to Canada by Fairfield Energy Venture (Fairfield) and Maine Public Service Company (MPSC); (Docket PP-83EA)

SUMMARY: On October 8, 1985, the Administrator of the Economic Regulatory Administration (ERA) issued an order authorizing Fairfield and MPSC to export electric energy to Canada.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Economic Regulatory Administration (RG-22), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5935

Lise Courtney M. Howe, Office of General Counsel (GC-11), Department of Energy, 1000 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900

SUPPLEMENTARY INFORMATION: On August 30, 1985, Fairfield Energy Venture and Maine Public Service Company jointly filed an application with ERA seeking authorization to export electric energy at a maximum rate of 30 megawatts (MW) from Maine to the New Brunswick Electric Power Commission in Canada.

Fairfield, located in Fort Fairfield, Maine, has an agreement with Central Maine Power Co. (CMP), located in central and southern Maine, to sell it 30 MW of electric power from Fairfield's planned wood-fired, small power production facility, for 15 years beginning in 1987.

Fairfield is located in the service territory of MPSC. Because of the physical arrangement of the transmission system in Maine, electric energy cannot be transmitted directly from Fairfield to CMP. In order to deliver the electric energy to CMP, it must be wheeled through the utility systems of MPSC, the New Brunswick Electric Power Commission in New Brunswick, Canada, and the Maine Electric Power Company in the State of Maine. Although the energy will be transmitted through Canada, none of it will be sold there; instead, all of the energy (minus electrical losses) will be delivered to CMP for consumption in the U.S.

Notice of this application was given on September 6, 1985, (49 FR 36469) stating that any person desiring to be heard or to make any protest with reference to this application should file with ERA a Petition to Intervene or protest in accordance with the Rules of Practice and Procedure (18 CFR 1.8 and 1.0) within 30 days of the publication. No comments, protests or Petitions to Intervene were received.

On October 8, 1985, ERA staff completed a reliability analysis and determined that the proposed export of electric energy would not impair the reliability of the U.S. power supply system. The Administrator has concurred with this determination and on October 1985, issued an order authorizing the proposed export.

A copy of the order and the staff reliability analysis will be made available upon request for public inspection and copying at the DOE Freedom of Information Library, Room IE-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., October 8, 1985.

Marshall Staunton,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 85-24810 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the following collections to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Monday, September 16, 1985 (50 FR 37575).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Data Collection Services Division (DCSD), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW, Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., October 9, 1985.

Yvonne M. Bishop,

Director Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form Nos.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-1, 3, 4, 5, 5A, 6, 7A, 7A (Supp), 20, and 97.	Coal Program Package	Extension	Weekly, Quarter, Biennially	Mandatory	Manufacturing plants, producers of coke, purchasers and distributors of coal, coal mining operators, coal-consuming electric utilities, and boiler manufacturers.	14,980	31,800	The coal surveys collect data on coal production consumption, stocks, prices, imports and exports. Data are published in various EIA publications.

[FR Doc. 85-24722 Filed 10-16-85; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of September 9 Through September 13, 1985

During the week of September 9 through September 13, 1985, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 4, 1985.

Deiter Brothers Fuel Co., Inc., Bethlehem, Pennsylvania, HEE-0152

Deiter Brothers Fuel Co., Inc. filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On September 11, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

J.H. Seale & Son, Inc., Sumter, South Carolina, HEE-0136

J.H. Seale & Son, Inc. filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On September 10, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Mid-West Oil Company, Ltd., Enid Oklahoma, HEE-0141

Mid-West Oil Company, Ltd. filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On September 10, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Walthall Oil Company, Macon, Georgia, HEE-0149

Walthall Oil Company filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On September 10, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 24805 Filed 10-16-85; 8:45 am]
BILLING COCE 6450-01-M

Issuance of Decisions and Orders; Week of September 9 Through September 13, 1985

During the week of September 9 through September 13, 1985, the decisions and orders summarized below were issued with respect to applications for 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.

Implementation of Special Refund Procedures

Peterson Petroleum, Inc., 9/13/85, HEF-0149

The DOE issued a Decision and Order implementing a plan for the distribution of $33,199.83 received as a result of a consent order entered into by Peterson Petroleum, Inc. and the DOE on October 17, 1980. The DOE determined that the Peterson settlement fund should be distributed to customers who purchased motor gasoline from Peterson during the May 1, 1979, through June 31, 1979 consent order period. The specific information required in refund applications is provided in the Decision.

Refund Applications

Consolidated Gas Supply Corporation/ American Propane Corporation, 9/10/85, RF77-5

American Propane Corporation filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into which Consolidated Gas Supply Corporation. The firm claimed a refund on the basis of its purchase of 11,366,530 gallons of propane from Consolidated Gas during the consent order period. The DOE determined that American Propane's claim was below the presumption of injury level of $5,000. The DOE therefore granted American Propane a refund of $1,273.05 plus accrued interest of $902.78 for a total refund of $2,175.83.

Gulf Oil Corporation/Ashland Oil Company of California, 9/11/85, RF40-1660

The DOE issued a Decision and Order concerning an Application for Refund filed by Ashland Oil Company of California, a wholesaler of Gulf gasoline. The firm submitted banks of unrecouped increased product costs to substantiate its request for a refund based on purchases of 2,461,327 gallons of gasoline. In addition, it claimed

that it had purchased additional gallonage that its records did not include. The OHA attempted to help Ashland substantiate its claim to additional purchase volumes by contacting Gulf but it received no reply. In considering this application, the DOE concluded that Ashland Oil Corporation of California should receive a refund of $3,421 based only on 2,461,327 gallons of Gulf gasoline purchases.

Gulf Oil Corporation/Graeber Brothers, Inc., 9/11/85, RF40-3045

The Office of Hearings and Appeals issued a supplemental order concerning an August 13, 1985 Decision and Order, *Gulf Oil Corp./D'Amico Fuel Oil Co.*, 13 DOE ¶ 85,151 (1985). The DOE determined that the August 13 Decision had granted too small a refund to Graeber Brothers because the Decision understated the total amount of the firm's Gulf purchases. Accordingly, the DOE granted Graeber Brothers an additional refund of $9,767.

Gulf Oil Corporation/Wayne L. Gorz et al., 9/13/85, RF40-1076 et al.

The DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation deposit escrow fund to 10 purchasers of Gulf refined petroleum products. The refunds to these firms total $28,139 representing $24,520 in principal and $3,619 in interest. All of the refund applicants are retailers who demonstrated that they would not have been required to reduce selling prices to their customers by the amount of refund they received. Gulf may be required to pay additional interest; if it does so, each applicant will receive an additional, pro rata, refund.

Gulf Oil Corporation/Strefling Oil Company, Inc., et al., 9/13/85, RF40-0004 et al.

The DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation deposit escrow fund to 17 purchasers of Gulf refined petroleum products. The refunds to these firms total $103,030, representing $90,657 in principal and $13,373 in interest. All of the refund applicants are retailers who demonstrated that they would not have been required to reduce selling prices to their customers by the amount of refund they received. Gulf may be required to pay additional interest; if it does so, each applicant will receive an additional, pro rata, refund.

McCarty Oil Company/Minster Farmers Co-Op Exchange et al., 9/11/85, RF141-1 et al.

The DOE issued a Decision and Order granting refunds from the McCarty Oil Company deposit escrow fund to 18 purchasers of motor gasoline from McCarty. The refunds to these firms total $40,848.89, representing $29,537.20 in principal and $11,311.69 in interest. All of the refund applicants had been identified as purchasers by the DOE audit file. Twelve of the applicants were resellers who submitted claims for less than the $5,000 per claimant threshold, below which a detailed showing of injury is not required. Four of the applicants were agricultural cooperatives which had made spot purchases from McCarty. The DOE found that their status as agricultural cooperatives entitled them to refunds despite the fact that they were spot purchasers. One reseller applicant showed that its particular circumstances entitled it to a refund of slightly more than the $5,000 threshold. The final applicant was a rental car firm which applied for a refund of considerably more than $5,000 on the grounds that it was an end user. The DOE found that the firm was actually a retailer and awarded it a refund equal to the $5,000 threshold since it had not made a detailed showing of injury.

Nielsen Oil & Propane, Inc., Gas'n Shop et al., 9/9/85, RF141-1 et al.

The DOE issued a Decision and Order granting refunds from the Nielsen Oil & Propane, Inc. deposit escrow fund to 13 purchasers of motor gasoline and/or propane. The refunds to these firms total $39,889.92, representing $24,908.44 in principal and $14,981.48 in interest. All of the refund applicants were resellers who had been identified as purchasers by the DOE audit file and submitted claims for less than the $5,000 per claimant threshold, below which resellers are not required to made a detailed showing of injury.

Tenneco Oil Co./Major Oil Company of Georgia, 9/11/85, RF7-6; RF7-7

Major Oil Company of Georgia filed a Motion for Reconsideration concerning decisions granting it refunds in the Tenneco Oil Company special refund proceeding. *See Tenneco Co./Sav-a-Thon Self Service*, 9 DOE ¶ 82,600 (1982); *Tenneco Oil Co./Major Oil Co.*, 10 DOE ¶ 85,007 (1982). In those decisions, Major was granted a refund based upon a threshold purchase level of 600,000 gallons per year of Tenneco refined petroleum products because it stated that it had not calculated and maintained banks of unrecouped product costs increases. In its motion, Major stated that it had recently retained counsel, who recommended that it calculate banks for the refund period and submit market data to establish that Tenneco's prices were greater than the national average in order to establish that it qualified for a refund on the total amount of its purchases. In its decision, the DOE determined that, since the information presented by Major had been available to the firm at the time it originally filed an application for refund, the firm had not established that significantly changed circumstances existed or that newly discovered evidence justified the granting of its Motion for Reconsideration. Accordingly, the firm's motion was denied.

Willis Distributing Company, Inc./Matz Mobil Service, 9/9/85, RF 41-0023

The DOE issued a Decision and Order concerning an Application for Refund filed by Matz Mobil Service, a reseller of Willis Distributing Co., Inc. motor gasoline. The firm elected to apply for a refund based upon the presumption of injury outlined in *Willis Distributing Co.*, 12 DOE ¶ 85,062 (1984). In considering this application, the DOE concluded that Matz Mobil should receive a refund of $8,145 based upon the total volume of its Willis motor gasoline purchases.

Dismissals

The following submissions were dismissed:

Name and Case No.

Fulbright & Jaworski—HFA-0308
John Spillson—HFA-0309.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Officer of Hearings and Appeals.
October 9, 1985.

[FR Doc. 85-24804 Filed 10-16-85; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of September 16 Through September 27, 1985

During the period of September 16 through September 27, 1985, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are

available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 3, 1985.

M.A. Peake, Monroe, Oregon, HEE-0155

Millard A. Peake filed an Application for Exception from the requirement that it prepare and file Form EIA-782B with the DOE Energy Information Administration. On September 23, 1985, the Department of Energy issued a Proposed Decision and Order which tentatively concludes that the request should be denied. In reaching this proposed determination, the DOE considered the fact that Peake had never filed Form EIA-782B nor provided any other convincing documentation that to file the Form would produce a hardship or unfair distribution of burdens.

[FR Doc. 85-24806 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

Notice of Objection to Proposed Remedial Order; Period of September 2 Through September 13, 1985

During the period of September 2 through September 13, 1985, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Eenrgy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of He irings and Appeals, Department of Energy, Washington, D.C. 20585.

October 9, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Pester Derby Oil Co., Des Moines, Iowa, HRO-0304

On September 12, 1985, Pester Derby Oil Co., 303 Keosauqua Way, Post Office Box 10006, Des Moines, Iowa 50306, filed a Notice of Objection to a Revised Proposed Remedial Order which the Economic Regulatory Administration of the DOE issued to the firm on August 13, 1985. In the Revised PRO the ERA, on remand pursuant to a Decision and Order issued on February 11, 1985 (*Pester Derby Oil Co.*, 12 DOE ¶ 83,029), eliminated overcharges relating to Pester's sales of super bonus gasoline from the violations alleged in a PRO issued to Pester on September 12, 1980. The firm's objection relates to the calculation of the remaining overcharges which were found in the February 11 Decision and Order. According to the Revised PRO these remaining overcharges total $271,595.60.

[FR Doc. 85-24803 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

Martin Oil Service, Inc.; Implementation of special refund procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $256,730.87 obtained as a result of a consent order which the DOE entered into with Martin Oil Service, Inc. a reseller-retailer of motor gasoline located in Blue Island, Illinois. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0123.

FOR FURTHER INFORMATION CONTACT: Nancy L. Kestenbaum, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 250.282(c) of the procedural regulations of the Department of Energy, 10 CFR § 250.282(c), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $256,730.87 plus accrued interest obtained by the DOE under the terms of a consent order entered into with Martin Oil Service, Inc.. The funds were provided to the DOE by Martin to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period March 1, 1979 through August 31, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to 67 first purchasers who may have been overcharged. In order to obtain a refund, each claimant will be required either to submit a schedule of its monthly purchases from Martin or to submit a statement verifying that it purchased motor gasoline from Martin and is willing to rely on the data in the audit files. Certain firms will also be required to make specific demonstrations of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Applications for refund should not be filed at this time. Appropriate public notice will be given when the submisssion of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in

Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: October 9, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

October 9, 1985.

Name of Firm: Martin Oil Service, Inc.
Date of Filing: October 13, 1983.
Case Number: HEF-0123.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Martin Oil Service, Inc. (Martin).

I. Background

Martin is a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31 and is located in Blue Island, Illinois. Based on an audit of Martin's records, ERA issued a Notice of Probable Violation (NOPV) in which it alleged that Martin had committed violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The NOPV stated that between March 1, 1979 and August 31, 1979 Martin committed possible price violations amounting to $760,447.24 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Martin and the DOE regarding the firm's sales of motor gasoline during the period covered by the NOPV, Martin and the DOE entered into a consent order on August 31, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Martin does not admit that it violated the regulations.

The consent order required Martin to pay a total of $225,652, plus installment interest, in 24 equal monthly installments. The first payment was received on September 17, 1981 and the last on August 15, 1983.[1] This decision concerns the distribution of the funds in the escrow account.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify those persons who were likely to have been injured by the alleged overcharges or to easily determine the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of motor gasoline who may have been injured by Martin's pricing practices between March 1, 1979 and August 31, 1979. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceedings. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identified Purchasers

The basic purpose of a special refund proceeding is to recompense parties who were injured as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we have decided to rely in part on the information contained in the DOE's audit files. Our experience with similar cases supports the use of this approach in Subpart V cases where many of the purchasers of a firm's products are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under these circumstances, a reasonably precise determination can be made regarding the identity of the allegedly overcharged parties and the amount of alleged overcharges each party suffered.

During the DOE's audit of Martin, 67 first purchasers were identified as having allegedly been overcharged. ERA also alleged overcharges to customers who were not identified. We recognize that the DOE audit files do not necessarily provide conclusive evidence regarding the identity of all possible refund recipients or the appropriate refund for a particular firm. However, the information contained in those audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the direct customers identified by the audit, other direct customers who can show injury, and subsequent repurchasers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Co.*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, and the portion of the consent order fund which was allotted to each customer by ERA, are listed in the Appendix.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether the first purchasers were injured or were able to pass through the alleged overcharges. Besides considering the information which the audit file provides, we also propose the adoption of presumptions to be used in determining the level of a purchaser's injury. We propose to use these two methods to distribute the funds in the escrow account. Presumptions in refund cases are specifically authorized by applicable DOE procedure regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we plan to adopt in this case are to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in

[1] The consent order fund represents 3.37 percent of the amount of the overcharge originally alleged in the NOPV. The total consent order payment including installment interest amounted to $256,730.87. We have used this figure as the principal amount. As of August 30, 1985, the escrow account contained $342,971.17, including accrued interest.

the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, we intend to adopt a presumption that claimants seeking relatively small refunds were injured by the pricing practices of the company from which they purchased products. In addition, we are making a proposed finding that end users suffered injury. Also, we plan to use a volumetric presumption for certain claimants.

There are a variety of reasons for presuming that small refunds claimants were injured. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. Normally, in order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. Failure to allow simplified procedures could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small claims presumption, a claimant who is reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Several factors must be considered in order to establish the level of this threshold. One factor is that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of a possible refund. In this case, where the refund amount is fairly low and the early months of the consent order period many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.; Office of Special Counsel*, 11 DOE ¶ 85,226, (1984) (Conoco), and cases cited therein. The record indicates that thirty-three of the identified firms are eligible for small refunds. The three firms whose potential refund falls above the threshold are major oil refiners whose potential refunds are well in excess of the threshold amount.

A reseller or retailer which claims a refund in excess of $5,000 will be required to provide detailed documentation of its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and to show that market conditions would not permit it to pass through those increased costs.[2]

As noted above, we are making a proposed finding that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. Because of this, an analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We therefore propose that end users of motor gasoline sold by Martin be required to document only their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the alleged overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Martin's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,539 (1982) (*Tenneco*), and *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and of how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 plus interest will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

On the basis of the information in the record at this time, we propose to distribute a portion of the escrow funds to those firms listed in the Appendix.[3] Refunds will be authorized for those firms in the amounts indicated, plus accrued interest to the date they receive refunds, provided they make any necessary showing of injury.[4]

B. Refunds to Other Purchasers

There were also some first purchasers who were not identified by the ERA audit. These firms, and downstream purchasers, may have been injured as a result of Martin's pricing practices. If so, they would be entitled to a portion of the consent order funds provided by Martin. To help potential claimants not identified by ERA decide whether to apply for a refund, we propose to use a volumetric presumption. Under this procedure, a successful claimant's refund is determined by multiplying a factor, known as the volumetric refund amount by the number of gallons of fuel purchased by the claimant.[5] The

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,125 (1982) (Ada).

[3] Purchasers identified in the ERA audit as having allegedly been overcharged may submit information to show that they should receive refunds larger than those indicated.

[4] The share of the Martin escrow fund allocated to each firm listed in the Appendix represents 3.37 percent of the amount each was allegedly overcharged. This allocation is consistent with the terms of the consent order, which settled for 3.37 percent of the amount of the overcharge originally alleged in the NOPV.

[5] A volumetric approach is particularly appropriate in special refund proceedings in which the DOE is unable to identify readily persons who may be eligible to receive refunds. It has proved to be an administratively efficient method for determining what portion of the available settlement funds should be awarded to each

Continued

volumetric refund amount is the average per gallon refund, and in this case equals $.00044409 per gallon.[6] Potential applicants who were not identified by the ERA audit may use this figure to estimate the refunds to which they may be entitled. The volumetric presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Standard Oil Co. (Indiana)/Army & Air Force Exchange Service,* 12 DOE ¶ 85,015 (1984). The presumption and finding noted in Section A above apply also to applications submitted by claimants not identified by ERA. If valid claims exceed the funds available in the escrow account, all refunds will be reduced by a pro rata amount. Actual refunds will be determined after analyzing all appropriate claims.

C. Applications for Refund

In order to receive a refund, each claimant identified by ERA will be required to submit either a schedule of its monthly purchases of motor gasoline from Martin or a statement verifying that it purchased motor gasoline from Martin and is willing to rely on the data in the audit file. A claimant must also indicate whether it has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audits underlying these proceedings. Purchasers not identified by the ERA audit will be required to provide schedules of their monthly purchases of motor gasoline from Martin. If they claim injury at a level greater than the volumetric level, they must document this injury. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private, § 210, actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

D. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any funds remaining in the escrow account until the initial stage of the refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Martin Oil Service, Inc. pursuant to the consent order executed on August 31, 1981, will be distributed in accordance with the foregoing decision.

APPENDIX 1.—MARTIN OIL SERVICE CO.

First purchasers	Share of settlement[1]
Amoco, Washington District Office, Landover Mall Landover, MD 20785	$55,368.38
Atlantic Richfield Co., 1333 H. Street, NW., Washington, DC 20005	49,533.86
Koch Industries, Capital National Building, Houston, TX 77025	30,795.53
Athans Trucking, 6710 Pingree Road, Crystal Lake, IL 60014	15.40
Brinks, 234 E. 24th Street, Chicago, IL 60616	39.54
Dowell, 5400 N. Colorado Boulevard, Commerce City, CO 80022	40.31
Pioneer Steel, 9520 E. 104th Street, Henderson, CO 80212	17.45
U.S. Steel, North Buchanan Street, Gary, IN 46402	197.68
J. Duszynski, 13007 Torrence Avenue, Chicago, IL 60633	49.55
D. Owens, 1385 Clark Road, Gary, IN 46404	317.57
U.D. Abbring, Highway 231 S. Halleck Street, Demotte, IN 46310	64.69
B. Farmer, 824 Seventh Street, Rockford, IL 61104	118.87
M. Perez, 3401 S. California Avenue, Chicago, IL 60608	129.13
W. Summers, 641 N. LaSalle Street, Chicago, IL 60610	244.67
E. Larkins, 10350 Woodward Street, Detroit, MI 48202	191.53
C. Johnson, 8100 S. Ashland Avenue, Chicago, IL 60620	198.97
L. Hisdo, 3516 S. Ashland Avenue, Chicago, IL 60609	213.09
Addison, 26645 W. 12 Mile Road, Southfield, MI 478076	786.11
Burner, 2929 S. Cicero, IL 60650	157.38
Buy-Rite, 939 S. LaGrange, LaGrange, IL 60525	757.61
Century, Post Office Box 6192, Denver CO 80206	29.52
Chief Petroleum, 301 S. Tenth Street, Colorado Springs, CO 80904	3,231.98
Dearborn Wheels, 6425 Telegraph Road, Dearborn Heights, MI 48128	727.83

APPENDIX 1.—MARTIN OIL SERVICE CO.—Continued

First purchasers	Share of settlement[1]
Drawe Oil, 22841 Koths Street, Taylor, MI 48180	340.17
Excel Sales, Post Office Box 374, Fontana, WI 53125	1,065.36
Fitzco, 4800 Meriudale Court, NW, Atlanta, GA 30327	631.04
Gas Center, 5889 Archer Avenue, Chicago, IL 60638	1,492.63
General Petroleum, 5450 N.W., Chicago, IL 60630	65.73
Gladieux Refining, 4133 New Haven Avenue, Ft. Wayne, IN 46803	77.27
Gleitsman, 9124 W. Ogden Avenue, Brookfield, IL 60513	1,226.71
HS&L, 4220 Shirley Lane, Alsip, IL 60658	718.33
Industrial Oil, Post Office Box 13030, Pittsburg, PA	96.01
M&M Oil, 911 N. Baldwin, Marion IN 46952	96.27
Minuteman Gas & Pantry, 131 Washington Street, Woodstock, IL 60098	2,153.20
Remote Service, Post Office Box 35580, Louisville, KY 40232	537.34
Saturn Petroleum, 30400 Telegraph Road, Birmingham, LA 48100	313.47
Schweigert Oil, 16500 Elwell Road, Belleville, MI 48111	137.10
E.A. Shell, 6550 Old U.S. 23, Brighton, MI 48111	92.17
Spruce Oil, Post Office Box 5568 T.A., Denver, Co 80217	3,375.76
J.M. Sweeney, 5200 W. 41st Street, Chicago, IL 60650	134.01
Taylor Tire Service, 206 W. 14 Mile Road, Clawson, MI 48017	206.47
Watkins Oil, Box 195, Hillsdale, MI 49242	17.20
Wise Buy, 6630 W. Montrose, Harwood, Heights, IL 60634	263.67
Carson Petroleum, 332 S. Michigan Avenue, Chicago, IL 60604	68.04
Jubilee Oil, 4201 N. Lincoln, Chicago, IL 60618	78.05
Paulson Oil Co., 836 Broadway Chesterton, IN 46304	21.82

[1] This figure includes the share of installment interest. It does not include accrued interest. *See* note 1, p. 2.

APPENDIX 2.—MARTIN OIL SERVICE CO.

Spot purchasers	Share of settlement[1]
Conoco, 5 Greenway Plaza East, Houston, TX 77046	$16,858.48
Shell Oil, 1025 Connecticut Ave., NW., Washington, DC 20036	5,164.65
Total Petroleum, East Superior, Alma, MI 48801	23,543.51
Wood River Oil Co., Post Office Box 2302, Wichita, KS 67201	14,281.94
Circle G, 10 Main Street, Long Mont, CO 80501	37.23
Walter Meade, 28762 Warren Avenue, Westland, MI 48185	7.96
Morrison Refining	4.36
Osceola Refining, Post Office Box 517, West Branch, MI 48661	15.14
Tiger Petroleum, Post Office Box 26, Lebanon, IL 62254	60.82
Vickers Oil, 6666 Stapleton S. Drive, Denver, CO 80216	451.34
Ashland, Post Office Box 391, Ashland, KY 41101	406.66

[1] This figure includes the share of installment interest. It does not include accrued interest. *See* note 1, p. 2.

APPENDIX 3. APPENDIX MARTIN OIL SERVICE CO.

First purchasers	Share of settlement[1]
Bulkmatic, 12000 S. Doty, Chicago, IL 60628	$9.7
Largo Management, 4399 Lamot Way, Boulder, CO 80301	11.8

successful claimant. It also serves as a useful approximation of injury for those claimants who are unable to quantify their injury.

[6] This figure is obtained by dividing the $39,463.90 not allotted to identified purchasers by the 88,864,227 gallons of motor gasoline sold to purchasers not identified by ERA.

APPENDIX 3. APPENDIX MARTIN OIL SERVICE CO.—Continued

First purchasers	Share of settlement [1]
Village of Robbins, 3329 W. 13th Street, Robbins, IL 60472	7.44
Elm Street Service, 3603 W. Elm Street, McHenry, IL 60050	9.24
Moran Fuel, 409 Cornell, Calumet City, IL 60401	1.54
Omni Petroleum, Post Office Box 50032, Chicalo, IL 60650	12.58
Automatic Gas, Post Office Box 5568, Denver, CO 80217	.51
Gasgo, 803 W. Hill Grove Avenue, LaGrange, IL 60525	2.06
Keller-Heartt, 2478 Wisconsin Avenue, Downers Grove, IL 60515	5.64
State Oil, 357 N. Cedar Lake Road, Round Lake, IL60073	0.77

[1] As stated in the Proposed Decision and Order, we do not intend to process refund claims for under $15.00.

[FR Doc. 85-24801 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

Midway Oil Co.; Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $38,000 obtained as a result of a consent order which the DOE entered into with Midway Oil Company, a reseller-retailer of refined petroleum products located in Rock Island Illinois. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the Midway consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the Federal Register. All applications should refer to Case Number HEF-0129 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Midway Oil Company which settled possible pricing violations in Midway's sales of motor gasoline during the consent order period, November 1, 1973, through October 31, 1984. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distrubtion of the Midway consent order funds was issued on August 15, 1985. 50 FR 34749 (August 27, 1985).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Midway pursuant to the consent order. The DOE has decided that a portion of the consent order funds should be distributed to 10 first purchasers which the DOE's audit of Midway indicated may have been overcharged, provided each files an application for refund and makes any necessary showing of injury. Applications for refund will also be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, and volume of motor gasoline purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Any applicant claiming $5,000 or less, however, may simply submit evidence of its purchase volumes to document its injury.

As the Decision and Order published with this Notice indicates, applications for refund may now be filed by customers who purchased motor gasoline from Midway during the consent order period. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the Federal Register. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated October 9, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

October 9, 1985.

Name of Firm: Midway Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF-0129.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Midway Oil Company (Midway).

I. Background

Midway is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Rock Island, Illinois. Based on an audit of Midway's records, ERA issued a Proposed Remedial Order (PRO) to the firm which charged that Midway had violated the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The PRO alleged that between November 1, 1973, and October 31, 1974, Midway committed pricing violations amounting to $108,294.32 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Midway and the DOE regarding the firm's sales of motor gasoline during the period covered by the PRO, Midway and the DOE entered into a consent order on August 31, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Midway does not admit that it violated the regulations.

The consent order required Midway to deposit $38,000 into an interest-bearing escrow account for ultimate distribution by the DOE. Midway remitted this sum on June 23, 1981, in advance of the effective date of the consent order.[1] This decision concerns the distribution of the funds in the escrow account, including accrued interst.

On August 15, 1985, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties who were injured by Midway's alleged violations in the sale of motor gasoline. 50 FR 34,749 (August 27, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of actual or alleged violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined that we would rely in part on the information contained in ERA's

[1] As of August 31, 1985, the escrow account contained $58,731.41, including accrued interest.

audit file. We observed that our experience with similar cases supports the use of this approach in Subpart V cases where all or most of the purchasers of a firm's product are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We also noted that under such circumstances, a more precise determination regarding the identities of the allegedly overcharged first purchasers was possible. At the same time, we recognized that there may have been other purchasers not identified by the ERA audit who may have been injured by Midway's pricing practices during the audit period who would also be entitled to a portion of the consent order funds. Therefore, procedures by which such purchasers could establish a claim were also proposed.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was mailed to each purchaser identified in the audit file whose address was available. Copies were also sent to various service station dealers' associations. Comments were submitted on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia concerning the distribution of any funds remaining after refunds have been made to injured parties. The purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Midway refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address the issues raised by the states' comments at this time. Since no comments were received concerning first-stage procedures, we will employ the procedures suggested in the PD&O.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

A. Refunds to Identified Purchasers

In the PD&O we stated that during the DOE's audit of Midway, 10 first purchasers were identified as having allegedly been overcharged. ERA also alleged overcharges to customers who were not identified. We recognize that the DOE audit files do not necessarily provide conclusive evidence regarding the identity of all possible refund recipients or the appropriate refund for a particular firm. However, the information contained in those audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the customers identified by the audit, other customers who can show injury, and downstream customers of either type of firm. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Company*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, with the share of the settlement allotted to each by ERA, are listed in the Appendix.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether the first purchasers were injured or were able to pass through the alleged overcharges. Besides considering the information which the audit file provides, we will also adopt presumptions to be used in determining the level of a purchaser's injury. We will use these two methods to distribute the funds in the escrow account. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, we will adopt a presumption that claimants seeking relatively small refunds were injured by the pricing practices of the company from which they purchased products. In addition, we are making findings that end users and some types of regulated firms suffered injury. Also, we will use a volumetric presumption for certain claimants.

There are a variety of reasons for adopting the presumption that purchasers of motor gasoline from Midway seeking small refunds were injured. *See, e.g., Uban Oil Co.*, 9 COE ¶ 82,541 (1982). These firms were in the chain of distribution where the alleged overcharges occurred and therefore bore the impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. Failure to allow simplified procedures could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small claims presumption, a claimant who is a reseller or retailer of Midway motor gasoline will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Several factors determine the value of this threshold. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984)

(*Conoco*), and cases cited therein. The record indicates that nine of the identified firms are eligible for small refunds. The one firm whose potential refund falls above the threshold purchased 20 percent more fuel than the second-largest firm and over twice as much fuel as any other identified purchaser.

A reseller or retailer which claims a refund in excess of $5,000 will be required to provide detailed documentation of its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and to show that market conditions would not permit it to pass through those increased costs.[2]

As noted above, we are making a finding that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. Because of this, an analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. Therefore, end users of motor gasoline sold by Midway will be required to document only their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

In addition, firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that they absorbed the alleged overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Midway's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we will add such firms to the class of claimants that are not required to show that they did not pass through to their customers the cost increases resulting from these alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and of how the appropriate regulatory body or membership group will be advised of the applicant's receipt of amy refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 plus interest will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

On the basis of the information in the record at this time, we will distribute a portion of the escrow funds to those firms listed in the Appendix who file refund applications. Refunds will be authorized for those firms in the amounts indicated, plus accured interest to the date they receive refunds, provided they make any necessary showing of injury.[3] However, no addresses are available for four of those firms and we therefore are unable to contact these firms directly. In an attempt to locate these firms, we will provide Midway and various petroleum dealers associations with copies of this Decision and will publish a notice in the **Federal Register**. Information regarding the identity and location of each of these firms will be accepted for a period of 90 days following the date of publication of notice in the **Federal Register** of this final Decision of Order.[4]

B. Refunds to Other Purchasers

There were also some first purchasers who were not identified by the ERA audit. These firms, and downstream purchasers, may have been injured as a result of Midway's pricing practices. If so, they would be entitled to a portion of the consent order funds provided by Midway. To help potential claimants not identified by ERA decide whether to apply for a refund, we will use a volumetric presumption. Under this procedure, a successful claimant's refund is determined by multiplying a factor, known as the volumetric refund amount, by the number of gallons of motor gasoline purchased by the claimant.[5] The volumetric refund amount is the average per gallon refund, and in this case equals .001866 per gallon.[6] Potential applicants who were not identified by the ERA audit may use this figure to estimate the refunds to which they may be entitled. The volumetric presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Standard Oil Co. (Indiana)/Army & Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). The presumption and findings noted in Section A above apply also to applications submitted by claimants not identified by ERA. If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

III. Application for Refund

We have determined that by using the procedures described above, we can distribute the Midway consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refund from

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88, 125 (1982) (Ada).

[3] The share of the Midway escrow fund allocated to each firm listed in the Appendix represents 35 percent of the amount each was allegedly overcharged. This allocation is consistent with the terms of the consent order, which settled for 35 percent of the total amount of alleged overcharges. However, purchasers identified in the ERA audit as having allegedly been overcharged may attempt to show that they should receive refunds larger than those indicated.

[4] If we unable to locate a particular firm listed in the Appendix, we will reserve any funds allocated to that firm for alternative distribution in a subsequent proceeding.

[5] A volumetric approach is particularly appropriate in special refund proceedings in which the DOE is unable to identify readily persons who may be eligible to receive refunds. It has proved to be an administratively efficient method for determining what portion of the available settlement funds should be awarded to each successful claimant. It also serves as a useful approximation of injury for those claimants who are unable to quantify their injury.

[6] This figure is obtained by dividing the $21,340.11 not allotted to identified purchasers by the 11,383,163 gallons of motor gasoline sold to purchasers not identified by ERA.

individuals and firms who purchased motor gasoline from Midway between November 1, 1973, and October 31, 1974. As we proposed, the consent order funds will be distributed to those firms listed in the Appendix who file applications for refund providing they make any necessary demonstrations of injury. We will also grant refunds to any other eligible customers of Midway which apply and qualify for a refund.

In order to receive a refund, each claimant will be required to submit either a schedule of its monthly purchases of motor gasoline from Midway or a statement verifying that it purchased motor gasoline from Midway and is willing to rely on the data in the audit file. Purchasers not identified by the ERA audit will be required to provide specific information as to the date, place, price, and volume of motor gasoline purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged.

In addition, all applications must state:

(1) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(2) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim refund;

(3) Whether the applicant is or has been involved as a party in DOE enforcement or private, § 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d); and

(4) the name and telephone number of a person who may be contacted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF-0129 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Midway Oil Company pursuant to the consent order executed on August 31, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: October 9, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix

Midway Oil Company

First purchaser	Share of settlement [1]
Mr. Doyle Rinehard, Credit Island Zephyr, 2080 West River Drive, Davenport, Iowa 52802	$1,255.57
Mr. Don Giammetta, Fred's 66 Wrecker Service, 7627 NW Boulevard, Davenport, Iowa 52804	843.56
Homer Alignment, 6 E. Benton Street, Iowa City, Iowa 52240	261.71
Jim's 67, 1131 Feno Drive, Bettendorf, Iowa 52722	743.56
Jim's Zephyr	1,270.57
John's Service	3,890.71
Mr. Howard Manary, Manary's North Star, 213 Brude Avenue, Milan, Illinois 61264	6,560.02
Mr. Charles Sonneville, Sonneville Service, 1419 Lincoln Road, Bettendorf, Iowa 53722	482.46
Washam's Zephyr	828.90
Young's 44th Street Zephyr	622.75

[1] Not including accrued interest.

[FR Doc. 85-24802 Filed 10-16-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51589; FRL-2900-8]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 85-22548 beginning on page 38197 in the issue of Friday, September 20, 1985, make the following correction:

On page 38199, in the first column, in **P 85-1433**, in the second line, "Alkoxylate" should read "Alkoxylated".

BILLING CODE 1505-01-M

[OPTS-51588; FRL-2897-2]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 85-22091 beginning on page 38194 in the issue of Friday, September 20, 1985, make the following corrections:

1. On page 38195, in the second column, in **PMN 85-1412**, in the second line, "(GP)" should read "(G)".

2. On page 38195, in the third column, in **PMN 85-1414** in the eleventh line, *"Disposal.* 1.5" should read *"Disposal.* ~ 1.5".

3. Also on page 38195, in the third column, in **PMN 85-1415**, in the eighth line, ">15.0g/kg;" should read ">5.0g/kg;".

BILLING CODE 1505-01-M

[OPTS-59204B; TSH-FRL 2912-5]

Certain Chemical; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-60. The test marketing conditions are described below.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611-D, 401 M Street SW., Washington, DC 20460 (202-382-3395).

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 market exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-66. 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. The 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.

The following additional restrictions apply to TME-85-66. A bill of lading accompanying each shipment must state that use of the subtance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-85-66

Date of Receipt: August 28, 1985.

Notice of Receipt: September 9, 1985 (50 FR 36665).

Applicant: Confidential.

Chemical: (G) Ethylene vinyl fatty ester co-polymer.

Use: (G) Consumptive use.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Toxicity Data: No data was submitted on the TME substance.

Test Marketing Period: Five months.

Commencing on: October 9, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the TME substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 9, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-24756 Filed 10-16-85; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2912-2]

National Pollutant Discharge Elimination System; Maryland Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On September 30, 1985, the Environmental Protection Agency, Region III, approved the State of Maryland's National Pollutant Discharge Elimination System State Pretreatment Program. This action authorizes the State of Maryland to administer the National Pretreatment Program as it applies to municipalities and industries within the State.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Hass, Water Permits Branch (3WM51, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; 215/597-3689.

SUPPLEMENTARY INFORMATION:

Background.

The Pretreatment Program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the Pretreatment Program are to: (1) Prevent introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through treatment works or otherwise be incompatible with such works; and (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludge. Local pretreatment programs will be the primary vehicle for administering, applying, and enforcing pretreatment standards for industrial users of POTWs. To receive pretreatment program approval, a State must submit to the Environmental Protection Agency (EPA) a modification to its National Pollutant Discharge Elimination System (NPDES) program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

In support of its application for pretreatment program approval, the State of Maryland has submitted to EPA copies of the relevant statutes and regulations. The State has also submitted a statement by the Attorney General certifying, with appropriate citations to the statutes and regulations, that the State has adequate legal authority to administer the State pretreatment program as required by 40 CFR Part 403. EPA has concluded, upon reviewing all of these submitted materials, that the State has adequate legal authority to adminster the pretreatment program, including the authority to perform each of the activities set forth in 40 CFR 403.10(f)(1)(i)-(vi).

The State of Maryland has also submitted to EPA a program description. The program description sets forth the number of POTWs and industrial users subject to the program; and priorities and procedures for issuing State permits to implement the applicable pretreatment requirements; sampling and analysis procedures; enforcement procedures; and a description of the revenues to be dedicated to the program.

Based upon this information, EPA has concluded that the State will have the necessary procedures and resources, including the procedures and resources listed in 40 CFR 403.10(f) (2) and (3), to administer the pretreatment program. This conclusion is supported not only by a review of the State's program description but also is buttressed by Maryland's experience in administering its approved NPDES program.

Federal Register Notice of Approval of State NPDES Programs or Modifications

EPA will provide **Federal Register** notice of any action by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

States	Approved NPDES permit program	Approved to regulate Federal facilities	Approved State pre-treatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		06/03/81
Delaware	04/01/74		
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	06/12/83
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	06/03/81
Kansas	06/28/74	08/28/85	
Kentucky	09/30/83	09/30/83	09/30/83
Maryland	09/05/74		09/30/85
Michigan	10/17/73	12/09/78	06/07/83
Minnesota	06/30/74	12/09/78	07/16/79

States	Approved NPDES permit program	Approved to regulate Federal facilities	Approved State pre-treatment program
Mississippi	05/01/74	01/28/83	05/13/82
Missouri	10/30/74	06/26/79	06/03/81
Montana	06/10/74	06/23/81	
Nebraska	06/12/74	11/02/79	09/07/84
Nevada	09/19/75	08/31/78	
New Jersey	04/13/82	04/13/82	04/13/83
New York	10/28/75	06/13/80	
North Carolina	10/19/75	09/28/84	06/14/82
North Dakota	06/15/75		
Ohio	03/11/74	01/28/83	07/27/83
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
Rhode Island	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77		06/10/83
Vermont	03/11/74		03/16/82
Virgin Islands	06/30/74		
Virginia	03/31/75	02/09/82	
Washington	11/14/73		
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/16/81	

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget (OMB) has exempted this action from OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), I certify that this State Pretreatment Program Approval will not have a significant impact on a substantial number of small entities. Approval of the Maryland NPDES State Pretreatment Program establishes no new substantive requirements, but merely transfers responsibility for administration of the program from EPA to the State.

Dated: September 30, 1985.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 85-24760 Filed 10-16-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Hearing Designation Order; Washoe Shoshone Broadcasting, Ltd., et al.

In re applications of:	*MM Docket No. 85-293*
Minnie O. Foulk and Renee Ridley Bisalli, d/b/a/ Washoe Shoshone Broadcasting, a limited partnership.	File No. BPCT-850328KE.
TV Eleven Ltd., a limited partnership.	File No. BPCT-850509KF.
Silver State Telecasters	File No. BPCT-850509KC.
Reno-Eleven Telecasters	File No. BPCT-850509KH.
Reno Television Broadcasters (a limited partnership).	File No. BPCT-850509KI.
Reno Minority Broadcasting Corporation.	File No. BPCT-850509KJ.
Juan Villareal and Delsin Quesada d/b/a Reno Telecommunications Co.	File No. BPCT-850509KK.
Hirschland Communications, Inc.	File No. BPCT-850509KO.
Reno Eleven Broadcasting	File No. BPCT-850509KP.
Page Enterprises, Inc. (Kame-TV).	File No. BMPCT-850509KQ.
David Moose	File No. BPCT-850509KR.
Reno Community Broadcasting Co., a Nevada Limited Partnership.	File No. BPCT-850509KS.
Glorya Hammers	File No. BPCT-850509KT.
Nevada Television Corporation.	File No. BPCT-850509KU.
Peavine, Inc.	File No. BPCT-850509KV.
Reno Family Television Ltd	File No. BPCT-850509KW.

For Construction Permit Reno, Nevada.

Adopted: September 26, 1985.

Released: October 10, 1985.

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-caption mutually exclusive applications for a new commercial television station to operate on Channel 11, Reno, Nevada; [1] a late-filed amendment submitted by TV Eleven Ltd.,[2] and a petition for reconsideration of staff action filed by Sarkes Tarzian Inc.[3]

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 56 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location proposed by Washoe Shoshone Broadcasting, Reno-Eleven Telecasters, Reno Eleven Broadcasting, Nevada Television Corporation and Reno Family Television, Ltd. each would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. The transmitter site proposed by TV Eleven Ltd. will be located .48 miles from the AM non-directional tower proposed by A.M. Renaissance, Inc., in its application for a new AM station (BP-821020AI), (1160 kHz, Virginia City, Nevada). In the event that TV Eleven Ltd. is the successful applicant in this proceeding, and in the event that the facilities proposed by the AM station are constructed and operating at the time that TV Eleven Ltd. is ready to commence construction of its facilities, TV Eleven Ltd.'s construction permit will be conditioned to ensure that the AM station's radiation pattern is not adversely affected by the construction of the proposed television station.

5. In Section V-C, FCC Form 301, TV Eleven Ltd. specifies a maximum visual effective radiated power of 250 kW and an antenna height above average terrain of 2,348 feet. This combination of power and height exceeds the maximum permitted by § 73.614 of the Commission's Rules. Accordingly, TV Eleven Ltd. must submit a corrective amendment to the presiding Administrative Law Judge, within 20 days after this Order is released.[4]

6. Washoe Shoshone Broadcasting (Washoe), Reno-Eleven Telecasters and Reno Eleven Broadcasting have each indicated that it is a limited partnership. Each of the applicants has identified its general partners; however, none of the

[1] The application of Page Enterprises is not for a new television station, but is for modification of an existing licensed facility.

[2] TV Eleven Ltd. submitted an amendment to its application on July 16, 1985, after the "B" cut-off date (June 26, 1985). The amendment updates the applicant's other broadcast interests and is information required by § 1.65. Therefore, the amendment will be accepted for § 1.65 purposes only.

[3] On April 25, 1985, Sarkes Tarzian, Inc., licensee of Station KTVN(TV), Reno, Nevada, filed a petition requesting dismissal of the application of Washoe Shoshone Broadcasting or that it be held in abeyance until final action has been taken on Sarkes Tarzian's November 19, 1984, petition for reconsideration of the rulemaking proceeding which resulted in the allocation of Channel 11 to Reno. By letter dated June 25, 1985, the Commission's staff denied that request. On July 8, 1985, Sarkes Tarzian filed a petition for reconsideration of that action. The arguments which it advances in support of its July 8 petition are the same as those offered in support of its petition for reconsideration of the rulemaking proceeding. Accordingly, further action on Sarkes Tarzian's July 8 petition will be deferred until final action is taken on its November 19 petition for reconsideration of the rulemaking. The applicants in this proceeding are all aware of the petition for reconsideration of the rulemaking allocating Channel 11 to Reno. Any expenditures or other commitments made in connection with this application proceeding are at their own risk.

[4] Reduction of height or power may require the submission of new engineering data such as new contour maps, new vertical tower sketch, and changed area and population figures. If so, this information must be submitted as part of the required amendment.

limited partners have been disclosed. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *recon. granted in part*, FCC 85–252, released June 24, 1985, the Commission stated that henceforth limited partnership interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partners will "not be involved in any material respect in the management or operation of" the proposed station, 97 FCC 2d at 1023. The Commission defined the degree of noninvolvement in paragraphs 48–50 of the June 24 decision on reconsideration. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards, 97 FCC 2d at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Washoe, Reno-Eleven Telecasters and Reno Eleven Broadcasting can each submit the necessary certification and showing that its limited partnership interests will be sold only to individuals or entities that are sufficiently insulated. If the certification or showing is not appropriate, of course, the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Washoe, Reno-Eleven Telecasters and Reno Eleven Broadcasting, upon determining the limited partners, will each be required either to state that its limited partners have or will have no other media interests subject to the cross-interest policy or identify the limited partners with such interests, identify the other local media and state the nature and extent of the ownership interest.

7. In responding to Section I, item 1, Silver State Telecasters (Silver State) indicates that it is a sole proprietorship. However, in Section II, item 5(a), Silver State makes reference to a president as well as limited partners. Consequently, we are not able to determine the nature of the applicant. Accordingly, Silver State will be required to file an amendment which clarifies the nature of its business organization, to the presiding Administrative Law Judge, within 20 days after this Order is released. Further, if Silver State is a limited partnership, it should provide the information outlined in paragraph 6, *supra*.

8. Reno-Eleven Telecasters and Reno Family Television, Ltd. each has not certified that it is financially qualified to construct and operate as proposed. David Moose has indicated that he believes that he is financially qualified; however, at the time he filed his application, he had not obtained the necessary documentation to support this belief. Accordingly, Reno-Eleven Telecasters, Reno Family Television, Ltd. and David Moose will each be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, Form 301, as to its financial qualifications. If any applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378 (released July 15, 1982).

9. Magda E. Martinez, the sole general partner of Reno Eleven Broadcasting, is currently employed in an unidentified capacity by Station KROW(AM), Reno, Nevada. Ms. Martinez's connection with the station may be inconsistent with the Commission's cross-interest policy. However, we cannot make this determination since we have no information regarding the nature of Ms. Martinez's position at KROW(AM). Accordingly, an issue will be specified to determine if Reno Elevan Broadcasting's proposal is consistent with the Commission's cross-interest policy and, if not, whether grant of its application would be consistent with the public interest.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Washoe Shoshone Broadcasting, Reno-Eleven Telecasters, Reno Eleven Broadcasting, Nevada Television Corporation and Reno Family Television, Ltd., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Reno Eleven Broadcasting, whether its application is consistent with the Commission's cross-interest policy and, if not, whether grant of its application would be consistent with the public interest.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to issue 1.

13. It is further ordered, That TV Eleven, Ltd.'s July 16, 1985, amendment is accepted for § 1.65 purposes only.

14. It is further ordered, That, in the event that TV Eleven Ltd. is the successful applicant in this proceeding and in the event that the AM station proposed in the pending application for a construction permit, BP–821020AI, (1160 kHz, Virginia City, Nevada) begins operating prior to the time that TV Eleven Ltd. commences construction of its facilities, grant of the television application shall be subject to the following condition:

> Prior to construction of the tower authorized herein, permittee shall notify the AM Station so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

15. It is further ordered, That TV Eleven Ltd. shall submit an amendment to show compliance with § 73.614 of the Commission's Rules pertaining to power and antenna height above average

terrain, to the presiding Administrative Law Judge, within 20 days after this Order is released.

16. It is further ordered, That Washoe Shoshone Broadcasting, Reno-Eleven Telecasters and Reno Eleven Broadcasting shall each submit the certification, statement and/or information required by paragraph 6, *supra*, to the presiding Administrative Law Judge, within 20 days after this Order is released.

17. It is further ordered, That Silver State Telecasters shall submit an amendment clarifying its responses to FCC Form 301, Section I, item 1, and Section II, item 5(a), regarding the nature of its business organization, to the presiding Administrative Law Judge, within 20 days after this Order is released.

18. It is further ordered, That Reno-Eleven Telecasters, Reno Family Television, Ltd. and David Moose shall each submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days after this Order is released.

19. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

20. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-24704 Filed 10-16-85; 8:45 am]

BILLING CODE 6712-01-M

New FM Station; Applications for Consolidated Hearing; John Antonio Rodriguez and Jal Rene Washington

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. John Antonio Rodriguez, Armijo, New Mexico.	BPH-840515IA	85-295
B. Jal Rene Washington, Armijo, New Mexico.	BPH-840611IR	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non- standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85-24702 Filed 10-16-85; 8:45 am]

BILLING CODE 6712-01-M

New FM Station; Applications for Consolidated Hearing; Southeast Broadcasting, Ltd., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City and State	File No.
A. Southeast Broadcasting, Ltd.	Bonita Springs, FL	BPH-840418IK
B. Mathieson/Fitts/Schirnke Murphy.	do	BPH-840517IC
C. Bonita Springs Radio, Ltd.	do	BPH-840518IF
D. Bonita Springs Broadcasting, a District of Columbia Limited Partnership.	do	BPH-840518IG
E. Carr Broadcasting Company.	do	BPH-840518IH
F. Bonita Broadcasting Corp.	do	BPH-840518IJ
G. d. Tolbert Palmer & Associates Limited Partnership.	do	BPH-840518IK
H. Majorie Ellen Dwyer and Robert Allen Dwyer, A Florida Limited Partnership d/b/a Bonita Springs Radio, Ltd. (Marjorie Ellen Dwyer, General Partner).	do	BPH-840518IL
I. Gold Coast Broadcasting Corp.	do	BPH-840516IP
J. Radio Bonita, Inc.	do	BPH-840518IV

2. Pursuant to section 309(e) of the Commissions Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1963. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A, F, G
2. Air Hazard, A, B, C, D, E, F, G, H, I, J
3. Comparative, A, B, C, D, E, F, G, H, I, J
4. Ultimate, A, B, C, D, E, F, G, H, I, J

3. If there is any non-standarded issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix.—Issue

1. If a final environmental impact statement is issued with respect to A (Southeast), F (BBC) or G (Palmer) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal(s) is consistent with the National Envrionmental Policy Act, as implemented by §§ 1.301-1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the

applicant(s) is qualified to construct and operate as proposed.

[FR Doc. 85-24703 Filed 10-16-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Kintetsu Intermodal (U.S.A.), Inc., et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, DC 20573.

Kintetsu Intermodal (U.S.A.), Inc., 8411 La Cienega Blvd., Inglewood, CA 90301. Officers: Ryoi Nakamura, President/Director; Toshio Kumokawa, Vice President/Director; Jeff Kamachi, Vice President/Director, Dudley Farrell, Chief Finance Officer/Treas./Director

Judy M. Harper dba Harper International, 10130 Timberstone Road, Alpharetta, GA 30201

Allworld Removals Ltd., Inc., 464 Bremen Street, East Boston, MA 02128. Officers: Donald E. Reardon, President; Wm. O. Fuller, Director

M&S International Forwarding, Inc., 226 Carondelet Street, #405, New Orleans, LA 70130. Officer: Robert L. Mathews, Sole Officer

Dated: October 11, 1985.

By the Federal Maritime Commission

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-24711 Filed 10-16-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Tone Forwarding Corp., et al.; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 452
Name: Tone Forwarding Corp.
Address: 452 West 19th Street, New York, NY 10011
Date Revoked: September 9, 1985
Reason: Requested revocation voluntarily

License Number: 1319
Name: Ven-Air Services, Inc.
Address: 2700 Green Road, Bldg. I-3, Houston, TX 77060
Date Revoked: September 12, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1436
Name: Imex International, Inc.
Address: 8550 West Bryn Mawr Ave., Chicago, IL 60631
Date Revoked: September 14, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1617
Name: Cauci Shipping, Inc.
Address: 80-39th Street, Brooklyn, NY 11232
Date Revoked: September 25, 1985
Reason: Failed to maintain a valid surety bond

License Number: 66
Name: John W. Newton, Jr., Customs Brokers and Freight Forwarder
Address: 1492 Thomas Road, Beaumont, TX 77706
Date Revoked: September 26, 1985
Reason: Requested revocation voluntarily

License Number: 1919
Name: Schirmer International, Inc.
Address: 1804 N. Mitchell Ave., Arlington Hgts., IL 60004
Date Revoked: October 3, 1985
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-24712 Filed 10-15-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Chattahoochee Financial Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Banking indicated or the offices of the Board of Governors not later than November 5, 1985.

A. A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *The Chattahoochee Financial Corporation*, Marietta, Georgia; to engage *de novo* through its subsidiary, The Chattahoochee Business Group, Inc., Marietta, Georgia, in the business of originating, purchasing, servicing and selling to others, interests in mortgage loans and commercial loans pursuant to § 225.25(b) of Regulation Y.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* through its subsidiary, U.S. Bancorp Financial, Inc., which has branches in Eugene, Oregon; Spokane, Washington; and Salt Lake City, Utah, in extending the geographic area to the entire U.S. and continue to engage in the activities of making, acquiring, and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including commercial, discount, rediscount and consumer loans; installment sales contracts and other forms of receivables and the leasing of personal property and equipment.

pursuant to § 225.25(b)(1) and (5) respectively.

Board of Governors of the Federal Reserve System, October 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24795 Filed 10-16-85; 8:45 am]

BILLING CODE 6210-01-M

Community Financial Services, 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 November 7, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Community Financial Services, Inc.*, Atlanta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Georgia Bankers Bank, Atlanta, Georgia, a *de novo* bank.

2. *Patterson Bankshares, Inc.* Patterson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Patterson Bank, Patterson, Georgia.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bancshares of Ysleta, Inc.*, El Paso, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Ysleta Bancshares, Inc., thereby indirectly acquiring Bank of Ysleta, El Paso, Texas.

Board of Governors of the Federal Reserve System, October 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24796 Filed 10-16-85; 8:45 am]

BILLING CODE 6210-01-M

The Chase Manhattan Corp.; Proposed Acquisition of Bank and Formation of Bank Holding Company

The Chase Manhattan Corporation, New York, New York, has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to acquire indirectly all of the voting securities of Chase Bank of Maryland ("Chase Bank"), a state-chartered commercial bank.

Chase Bank will be the successor by merger to three Maryland-chartered savings and loan associations formerly insured by the Maryland Savings-Share Insurance Corporation: Chesapeake Savings and Loan Association of Annapolis, Inc., Annapolis, Maryland; Merritt Commercial Savings & Loan Association, Baltimore, Maryland; and Friendship Savings and Loan Association, Bethesda, Maryland. Bank will be held directly by Chase Manhattan National Holding Corporation, a wholly-owned subsidiary of Applicant proposed to be formed in connection with this acquisition.

In light of the exigent situation in Maryland involving savings and loan associations formerly insured by the Maryland Savings-Share Insurance Corporation, the Board has determined that it is advisable to accept these applications for processing and request public comment thereon during the pendency of enabling legislation for this proposal now under consideration by the Maryland General Assembly. The Board thereby will be able to act expeditiously on this proposal with the benefit of public comment when and if such enabling legislation is enacted.

Moreover, in light of this exigent situation, the Board has determined that a shortened comment period is reasonable and appropriate in this case. Accordingly, comments regarding this application must be submitted in writing and must be received at the offices of the Board of Governors not later than 5:00 p.m. on Wednesday, October 23, 1985. Comments should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Any comments must conform with the requirements of the Board's Rules of Procedure (12 CFR 262.3(e)). This application is available for inspection at the offices of the Board of Governors and at the Federal Reserve Banks of New York and Richmond.

In connection with this application, Applicant also has applied on behalf of Chase Bank for approval under section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*) and § 208.4 of Regulation H (12 CFR 208.4) for membership in the Federal Reserve System.

Board of Governors of the Federal Reserve System, October 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24931 Filed 10-16-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Health Care Industries—Low Back—Epidemiologic Study; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: October 22, 1985.

Time: 9 a.m.-12 noon.

Place: Room 138, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888.

Purpose: To discuss a proposed study to assess the efficacy of a program for avoiding back stress in nurses by more frequent use of patient-handling devices. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Roger Jensen, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888, telephones: FTS: 923-4809, Commercial: 304/291-4809.

Dated: October 8, 1985.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-24909 Filed 10-16-85; 8:45 am]

BILLING CODE 4160-19-M

Cooperative Agreement To Assist the Department of Health, Commonwealth of Pennsylvania, With Developing a Surveillance System and Cohort Registry of Former Chemical Workers; Availability of Funds for Fiscal Year 1985

Correction

In FR Doc. 85–19803, beginning on page 33639 in the issue of Tuesday, August 20, 1985, on page 33639, third column under **"FOR FURTHER INFORMATION CONTACT"** the third line is corrected to read "Biologics (HFN–366), Food and Drug".

BILLING CODE 1505-01-M

Food and Drug Administration

[Docket No. 85F-0427]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of the copolymer of acrylic acid and 2-acrylamido-2-methyl propane sulfonic acid as a scale inhibitor in the manufacture of paper and paperboard intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Lester Borodinsky, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3886) has been filed by Calgon Corp., Pittsburgh, PA 15230, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be ameded to provide for the safe use of the copolymer of acrylic acid and 2-acrylamido-2-methyl propane sulfonic acid as a scale inhibitor in the manufacture of paper and paperboard intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–24708 Filed 10–16–85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85M-0451]

Minnesota Mining and Manufacturing (3M) Co.; Premarket Approval of Vision Care/3M Posterior Chamber Intraocular Lenses: Style 30 and Style 31

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Minnesota Mining and Manufacturing (3M) Co., St. Paul, MN, for premarket approval, under the Medical Device Amendments of 1976, of the Vision Care/3M Posterior Chamber Intraocular Lenses: Style 30 and Style 31. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by November 18, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

SUPPLEMENTARY INFORMATION: On July 14, 1983, Minnesota Mining and Manufacturing (3M) Co., St. Paul, MN 55144–1000, submitted to CDRH an application for premarket approval of the Vision Care/3M Posterior Chamber Intraocular Lenses: Style 30 and Style 31. The devices are indicated for use as primary implants where a cataractous lens has been removed by extracapsular extraction methods in patients 60 years old and older. The devices are available in powers from 9 diopters (D) to 27 D in 1.0 D increments (14.5 D to 24.5 D in 0.5 D increments). The haptics of the lenses may be colored with a color additive ([phthalocyaninato(2–)] copper) which is listed for use in general and ophthalmic surgery and conforms to listing requirements (21 CFR 74.3045). On April 16, 1984, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 5, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583) intraocular lenses are regulated as class III devices (premarket approval).

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 18, 1985, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 8, 1985.

James S. Benson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 85–24709 Filed 10–16–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85M–0450]

Surgidev Corp.; Premarket Approval of Surgidev Posterior Chamber Intraocular Lenses: Styles 17 and 17A

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Surgidev Corp., Goleta, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Surgidev Posterior Chamber Intraocular Lenses (IOL's): Styles 17 and 17A. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by November 18, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

SUPPLEMENTARY INFORMATION: On June 29, 1983, Surgidev Corp., Goleta, CA 93116, submitted to CDRH an application for premarket approval of the Surgidev Posterior Chamber Intraocular Lenses (IOL's): Styles 17 and 17A. The devices are indicated for use in the visual correction of aphakia in patients age 60 years or over as a primary implant following extracapsular cataract extraction (ECCE). The devices are available in powers from 10 diopters (D) to 27 D in 0.5 increments. The haptics of the lenses may be colored with a color additive ([phthalocyaninato(2–)] copper) which is listed for use in general and ophthalmic surgery and conforms to listing requirements under 21 CFR 74.3045. On November 17, 1983, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 5, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295; 90 Stat. 539–583), IOL's are regulated as class III devices (premarket approval).

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 18, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 8, 1985.

James S. Benson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 85–24710 Filed 10–16–85; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

Correction

In FR Doc. 85–19801, beginning on page 33640 in the issue of Tuesday, August 20, 1985, make the following correction: On page 33641, in the first column, the eighth line of the first complete paragraph should have read "requirements for a class of marketed drugs".

BILLING CODE 1505–01–M

Advisory Committees; Meetings

Correction

In FR Doc. 85–23072, beginning on page 39176 in the issue of Friday, September 27, 1985, make the following corrections:

On page 39176, third column:

1. In the *Type of meeting and contact person* paragraph, seventh line, the first word should read "Srikrishna".

2. In the *Closed committee deliberations* paragraph, eighth line, "their" should read "this".

3. In the following paragraph, first line, insert "meeting" between "committee" and "listed".

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-85-805; FR-2082]

Delegation of Procurement Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Assistant Secretary for Administration has been designated as the Department's Procurement Executive, consistent with the provisions of Executive Order 12352, "Federal Procurement Reform", dated March 17, 1982 and the Department's Procurement Executive Charter, signed by the Secretary on March 30, 1983. The Secretary of HUD is transferring all authority to enter into procurements within the Department to the Assistant Secretary for Administration, as HUD Procurement Executive.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Office of Administration, Room 5260, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-3500. Telephone (202) 755-5294. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary of HUD, on March 30, 1983, designated the Assistant Secretary for Administration as the Department's Procurement Executive. The Procurement Executive has Department-wide authority to oversee development of procurement systems, evaluate procurement activities in accordance with approved criteria, enhance career management of the procurement work force, and certify to the Secretary that procurement systems meet approved criteria. In addition, the Procurement Executive has the responsibility, with the advice and concurrence of the relevant program Assistant Secretaries, for developing policies to assure greater uniformity and consistency in the Department's award and administration of discretionary grants and cooperative agreements.

The delegation of authority contained herein authorizes the procurement Executive to redelegate the authority delegated to him or her. However, with respect to HUD Headquarters procurements, the Procurement Executive is required, under the Procurement Executive Charter, to redelegate the authority (1) for procurements related to programmatic functions of the Government National Mortgage Association (GNMA) to the President of GNMA and (2) for procurements directly related to the acquired property operations of the Office of Housing to the Assistant Secretary for Housing—Federal Housing Commissioner.

Accordingly, the Secretary of Housing and Urban Development delegates as follows:

Section A. Authority Delegated

The Assistant Secretary for Administration, designated as the Department's Procurement Executive, is authorized to exercise all duties, responsibilities and powers of the Secretary with respect to Departmental procurement, to implement Executive Order 12352, "Federal Procurement Reforms", dated March 17, 1982, and the Department's Procurement Executive Charter, dated March 30, 1983.

The authority delegated to the Procurement Executive includes the following duties, responsibilities and powers:

1. Authority to enter into and administer all procurement contracts within the Department and make related determinations. (See Section C of this Delegation for authority to be redelegated to the President, GNMA and the Assistant Secretary for Housing-Federal Housing Commissioner.)

2. Responsibility for procurement program development, including:

a. Implementation of the procurement reforms identified in Executive Order 12352;

b. Acting as the Department's advocate for greater competition in procurement;

c. In coordination with the Office of Federal Procurement PPlicy, determination of specific areas where Government-wide performance standards should be established and applied, and development of Government-wide procurement policies, regulations and standards;

d. Establishment and maintenance of an evaluation program for all procurement activities within the Department;

e. Development of programs to enhance the Department's procurement workforce and to assure that procurement personnel meet minimum levels of training and experience; and

f. Development of all Departmental procurement policy, regulations and procedures.

3. Responsibility, with the advice and concurrence of the program Assistant Secretaries, for developing policies to assure greater uniformity and consistency in the administrative aspects of the Department's award and administration of discretionary grants and cooperative agreements, including:

a. Effective implementation of uniform administrative requirements relating to assistance, such as OMB Circulars and OMB Policy Letters;

b. Department-wide guidance related to the award and administration of discretionary assistance instruments, to provide a uniform Departmental policy concerning the Federal Grants and Cooperative Agreement Act and specific policies and procedures for grants and cooperative agreements awarded by the Office of Procurement and Contracts; and

c. Encouragement of HUD program offices to use the Office of Procurement and Contracts at Headquarters and the Regional Contracting Officers in the Field to award and administer discretionary assistance agreement programs.

Section B. Authority to Issue Rules and Regulations

The Procurement Executive is authorized to issue such rules and regulations as may be necessary to carry out the authority delegated under Section A.

Section C. Authority to Redelegate

The Procurement Executive is authorized to redelegate to the employees of the Department any of the authority delegated under Section A, provided, that with respect to HUD Headquarters procurement, the Procurement Executive redelegates authority:

1. To the President of GNMA to exercise statutory procurement authority with respect to GNMA's programmatic functions, including authority to enter into and administer procurement contracts and make related determinations; and

2. To the Assistant Secretary for Housing—Federal Housing Commissioner to exercise procurement authority related to the acquired property program of the Assistant Secretary for Housing—Federal Housing Commissioner, including authority to enter into and administer procurement contracts and make related determinations. This includes the award and management of procurement actions for all HUD-owned property and property where HUD is mortgagee-in-possession under the National Housing Act (12 U.S.C. 1701-1749). Also included are the award and management of procurement actions incidental to a foreclosure or the taking of a deed-in-lieu of foreclosure on property with

HUD-held mortgages, including purchase-money mortgages.

Section D. Continued Effectiveness of Existing Redelegations

1. Existing redelegations of authority by the Assistant Secretary for Administration with respect to the Department's procurement functions covered by this delegation are continued in effect as if issued under this delegation, unless expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

2. Existing redelegations of authority by the Assistant Secretary for Housing—Federal Housing Commissioner with respect to the acquired property program procurement functions covered by this delegation are continued in effect as if issued under this delegation, unless expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Supersedure

The delegation of authority contained in Section A supersedes the Delegation of Authority published at 41 FR 2665, January 19, 1976, and amended at 44 FR 59670, October 16, 1979, 45 FR 73141, November 4, 1980, and 49 FR 20760, May 16, 1984, to the extent that they may be inconsistent.

Paragraph 15 of Section A of the Delegation of Authority at 36 FR 5005 (1971) is revoked.

The Delegation of Authority at 48 FR 40958 (1983), as amended, is further amended to read as follows:

Each Regional Administrator and Deputy Regional Administrator is hereby delegated all authority currently delegated to any HUD officer or employee in the Region for which that Regional Administrator or Deputy Regional Administrator is responsible, except for procurement authority, including authority to enter into and administer procurement contracts and make related determinations.

Dated: October 9, 1985.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 85-24786 Filed 10-16-85; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-85-806; FR-2082]

Redelegation of Procurement Authority

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Administration, as HUD Procurement Executive, is redelegating her authority to award HUD procurements in two areas. The authority to award procurements related to the programmatic functions of the Government National Mortgage Association (GNMA) is redelegated to the President of GNMA, and the authority to award procurements relating to the acquired property operations of the Office of Housing is redelegated to the Assistant Secretary for Housing—Federal Housing Commissioner.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, Office of Administration, Room 5260, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-3500. Telephone (202) 755-5294 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under the Procurement Executive Charter of the Department of Housing and Urban Development, signed by the Secretary on March 30, 1983, implementing Executive Order 12352, "Federal Procurement Reforms", dated March 17, 1982, the Assistant Secretary for Administration is designated as HUD's Procurement Executive. The Charter provides that the authority to enter into procurements within the Department proceeds directly from the Secretary, through the Procurement Executive, to the Assistant Secretary for Housing—Federal Housing Commissioner, the President of the Government National Mortgage Association (GNMA), the Director of the Office of Procurement and Contracts (within the Office of the Assistant Secretary for Administration) or the HUD Regional Administrators, depending on the purpose of the procurement. Redelegations of procurement authority to the Director, Office of Procurement and Contracts, and to the Regional Administrators have been published previously. This Notice contains the redelegations of procurement authority to the President of GNMA and to the Assistant Secretary for Housing—Federal Housing Commissioner.

Accordingly, the Assistant Secretary for Administration, as HUD's Procurement Executive, redelegates as follows:

Section A. Authority Redelegated

The Procurement Executive redelegates the power and authority:

1. To exercise procurement authority with respect to the requirements related to GNMA's programmatic functions to the President of GNMA. The President of GNMA exercises statutory procurement authority with respect to such requirements; and

2. To exercise procurement authority related to the acquired property program of the Office of the Assistant Secretary for Housing—Federal Housing Commissioner to the Assistant Secretary for Housing—Federal Housing Commissioner.

Section B. Authority to redelegate

The President of GNMA and the Assistant Secretary for Housing—Federal Housing Commissioner are each authorized to redelegate any of the powers or authority redelegated to them under Section A to any employee or employees of their respective offices.

Section C. Supersedure

The redelegations of authority contained in Sections A and B supersede the redelegations of authority contained in Section A of the Designations and Redelegations of Authority published at 41 FR 2666, January 19, 1976, and amended at 44 FR 59670, October 16, 1979, 45 FR 73141, November 4, 1980; and 49 FR 20760, May 16, 1984 to the extent that they may be inconsistent.

Dated: October 9, 1985.

Judith L. Tardy,

Assistant Secretary for Administration, as HUD Procurement Executive.

[FR Doc. 85-24787 Filed 10-16-85; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-85-1555]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Contract and Subcontract Activity Reporting
Office: Community Planning and Development
Form No. HUD–2516
Frequency of submission: Quarterly
Affected public: State or Local Governments
Estimated burden hours: 5,600
Status: Reinstatement
Contact: Yvette Aidara, HUD, (202) 755–8909, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 24, 1985.

Proposal: Annual Public Housing Agency (PHA) Performance Awards
Office: Public and Indian Housing
Form No. None
Frequency of submission: Annually
Affected public: State or Local Governments
Estimated burden hours: 10,400
Status: New
Contact: Odessa W. Burroughs, HUD, (202) 472–4703, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 24, 1985.

Proposal: Request and Payment for Labels, Mobile Home Monthly Production Report, Refunds Due Manufacturer, and Adjustment Report
Office: Housing
Form No.: NCSBCS–301
Frequency of submission: Monthly
Affected public: Businesses or Other For-Profit
Estimated burden hours: 10,951
Status: Reinstatement
Contact: James C. McCollom, HUD, (202) 755–6920, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 19, 1985.

Proposal: Requisition for Funds—Advance Loans
Office: Public and Indian Housing
Form No.: HUD–5402
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit and Small Businesses or Organizations
Estimated burden hours: 5,400
Status: Revision
Contact: George C. Davis, HUD, (202) 755–6444, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 24, 1985.

Proposal: Issuer's Monthly Remittance Advice
Office: Government National Mortgage Association
Form No.: HUD–11714 and 11714SN
Frequency of submission: Monthly
Affected public: Businesses or Other For-Profit
Estimated burden hours: 130,000
Status: Extension
Contact: Patricia Gifford, HUD, (202) 755–5550, Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 24, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85–24790 Filed 10–16–85; 8:45 am]

BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D–85–807; FR–2112]

Redelegation of Authority With Respect to Single Family Housing Programs

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Redelegation of Authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is consolidating, amending, and superseding the redelegations of authority to Regional Administrators-Regional Housing Commissioners; Directors, Office of Housing in Regional Offices; and Managers and Deputy Managers of HUD Field Offices with respect to the Single Family Housing Programs of the National Housing Act (12 U.S.C. 1701 et seq) and is redelegating to the above listed officials the authority to issue statements of account, to accept partial payments and payment in full, to compromise and settle claims against mortgagors, to accept deeds in lieu of foreclosure, and to execute releases, satisfactions and assignments with respect to one-to-four family mortgages held or acquired by the Secretary.

EFFECTIVE DATE: October 10, 1985.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–6672. (This is not a tool free number.)

SUPPLEMENTARY INFORMATION: Previous redelegations of authority to Regional Administrators-Regional Housing Commissioners; Directors, Office of Housing in Regional Offices; and Field Office Managers and Deputy Field Office Managers concerning the Single Family Housing Programs were published October 14, 1970 (35 FR 16104 and 16105), as amended July 27, 1971 (36 FR 13854), November 10, 1971 (36 FR 21538), May 20, 1972 (37 FR 10408), July 20, 1972 (37 FR 14427), and September 6, 1973 (38 FR 24243). This notice amends, consolidates, and supersedes these

redelegations and in addition redelegates the authority to issue statements of account, to accept partial payments and payment in full, to compromise and settle claims against mortgagors, to accept deeds in lieu of foreclosure, and to execute releases, satisfactions and assignments with respect to one-to-four family mortgages held or acquired by the Secretary. In addition, there is set forth in section A, paragraphs 5 and 10, respectively, certain responsibilities governing commitments to insure loans and advances related to rehabilitation under section 203(k) of the National Housing Act and determinations related to assignments of mortgages and occupied conveyance of property to the Secretary.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner redelegates as follows:

Section A. Authority Redelegated. To the positions of Regional Administrator-Regional Housing Commissioner, Deputy Regional Administrator, Director, Office of Housing in Regional Offices; and Managers and Deputy Managers of HUD Field Offices is redelegated the following authority:

1. To approve and issue commitments and modifications of commitments for mortgage insurance, and to insure mortgages, under any one-to-four family housing program and Title X Land Development program.

2. To approve and issue feasibility letters.

3. To approve application for and to make periodic assistance payments under section 235 of the National Housing Act and temporary mortgage assistance payments under section 230 of the National Housing Act; to approve the amount of section 235 payments to be recaptured by the Secretary; to approve and execute releases and satisfaction of mortgages and other liens given to secure repayment of any such payments under this paragraph and for this purpose to accept the written statement of the mortgagee as to the amount of the mortgage assistance paid.

4. To grant extensions of the time within which a mortgagee must take any action required by the one-to-four family and Title X regulations.

5. To take action as necessary with respect to loans insured under section 203(k) of the National Housing Act as far as (a) issuing commitments to insure loans and advances made during rehabilitation; (b) approving rehabilitation loan agreements; (c) approving advances during rehabilitation; and (d) approving change orders.

6. To approve the extension of construction contracts, change orders and advances for construction, planning and land acquisition under Title X.

7. To approve forbearance agreements and recasting arrangements of insured mortgages.

8. To approve the acceptance of an offer of a deed-in-lieu of foreclosure.

9. To authorize refunds of fees.

10. To make determinations related to the assignment of mortgages and the occupied conveyance of property to the Secretary.

11. To perform all functions necessary with respect to the Secretary-held mortgages as far as servicing the mortgages in accordance with their provisions, including the adjustment of interest rates under adjustable rate mortgages; approving forbearance agreements; issuing statements of account; accepting payment in full and partial payments; compromising and settling claims against mortgagors; accepting deeds-in-lieu of foreclosure and executing releases; satisfactions, and assignments; and acting as custodian to safeguard notes, mortgages, and other legal instruments.

12. To make repairs, alterations and improvements on acquired properties; to compromise and settle claims by or against HUD with respect to such properties; and to execute releases and other instruments required in connection with such compromise or settlement.

13. To approve offers to rent or purchase one-to-four family properties acquired in connection with HUD insurance claims and properties over which the Secretary has been granted custody or possession by another agency of the United States; to approve the terms of mortgages taken as security in connection with such sales; and to execute such contracts, leases, assignments, and instruments as may be necessary in the rental or sale of such properties, including deeds or other documents in connection with the conveyance of title.

14. To approve expenditures to correct or compensate for defects in single family properties sold by the Secretary to comply with any warranty provisions incorporated in the sales contract and for defects meeting requirements of Section 518 of the National Housing Act.

15. To compromise and settle claims by or against tenants or former tenants of acquired properties, and execute releases or other instruments required in connection with such compromise or settlement.

16. To endorse any checks or drafts in payment of insurance losses on which the United States of America is a payee.

17. To issue orders for the publication of notices and advertisements in various media as deemed necessary for the sale, rental, maintenance, management, operation and disposition of acquired properties or properties of the United States over which the Secretary has been granted custody or possession by another agency of the United States.

Section B. Supersedure. This redelegation of authority supersedes the redelegation of authority with respect to Single Family Housing Programs published October 14, 1970 (35 FR 16104 and 16105), as amended July 27, 1971 (36 FR 13854), November 10, 1971 (36 FR 21538), May 20, 1972 (37 FR 10408), July 20, 1972 (37 FR 14427), and September 6, 1973 (38 FR 24243).

Section C. Conclusive evidence of authority. Any instrument or document executed in the name of the Secretary by an employee of the Department of Housing and Urban Development under the authority of this redelegation purporting to relinquish or transfer any right, title, or interest in or to real or personal property shall be conclusive evidence of the authority of such employee to act for the Secretary in executing such instrument or document.

Section D. Authority excepted. There is excepted from the authority redelegated under Section A the power to:

1. Establish the rate of interest on Federal loans.

2. Issue notes or other obligations for purchase by the Secretary of the Treasury.

3. Exercise the powers under section 402(a) of the Housing Act of 1950, as amended (12 U.S.C. 1749a(a)).

4. Sue and be sued.

5. Issue rules and regulations.

Section E. Each of the officials named in Section A is authorized to redelegate to subordinate HUD employees in the official's respective Region or Office, all or part of the power and authority conferred by this notice, except that no official named herein may redelegate the power to redelegate in turn to others.

Authority: Section 7(d)), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Assistant Secretary Federal Housing Commissioner's authority to redelegate published at 36 FR 5005 (1971) and 36 FR 5007 (1971).

Dated: October 10, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 85-24789 Filed 10-16-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-19164]

Arizona; Notice of Conveyance of Public Land

October 8, 1985.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described mineral estate was transferred out of Federal ownership in exchange for State-owned mineral estate. The Federal mineral estate transferred into State ownership is described as follows:

Gila and Salt River Meridian, Arizona

T. 41 N., R. 2 W.,
Sec. 7, S½;
Sec. 17, N½SW¼, SW¼SW¼;
Sec. 19, lots 3, 4.
T. 39 N., R. 5 W.,
Sec. 5, lots 1 through 4, inclusive, S½N½, S½;
Sec. 6, lots 1, 2, 3, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, all.
T. 39 N., R. 6 W.,
Sec. 14, NW¼, S½;
Sec. 29, all.
T. 40 N., R. 6 W.,
Sec. 8, NE¼NW¼, S½NW¼, SW¼, E½;
Sec. 30, lots 1 thru 4, inclusive, E½W½, E½;
Sec. 31, lots 1 thru 4, inclusive, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

Comprising 5,257.19 acres in Coconino and Mohave Counties.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of the public mineral estate and the acquisition of State-owned mineral estate by the Federal Government.

The following described mineral estate acquired by the Federal Government in this exchange will not be open to appropriation under the mining laws, including the mineral leasing laws:

Gila and Salt River Meridian, Arizona

T. 39 N., R. 6 E.,
Sec. 16, all.
T. 40 N., R. 7 E.,
Sec. 32, all.
T. 39 N., R. 13 W.,
Sec. 32, all.
T. 42 N., R. 13 W.,
Sec. 32, lots 1 thru 4, inclusive, S½.
T. 35 N., R. 14 W.,
Sec. 32, E½SE¼.
T. 38 N., R. 14 W.,
Sec. 16, all.
T. 41 N., R. 14 W.,
Sec. 32, all;
Sec. 36, all.
T. 42 N., R. 14 W.,
Sec. 32, lots 1 thru 4, inclusive, S½;
Sec. 36, lots 1 thru 4, inclusive, S½.

Comprising 5,256.80 acres in Coconino and Mohave Counties.

The exchange was made based on approximately equal values.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-24715 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-32-M

[U-52894]

Realty Action; Sale of Public Lands in Beaver County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal land Policy and Management Act of 1976 (43 FR 1716) public land described as Lot 2, Sec. 18, T. 29 S., R. 7 W., SLB&M, Utah, containing 40.30 acres, is proposed for sale by competitive bidding at no less than the appraised fair market value of $12,000.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted by December 5, 1985. The sale will be held on December 20, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah, 84720, (801) 586-2458). Comments should also be sent to the same address. The sale will be held in the Commission Chambers, Beaver County Courthouse, 105 East Center Street, Beaver, Utah.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights including Right-of-Way U-44897 held by Utah Power and Light Company and Oil and Gas Lease U-52970.

4. If the public lands are not sold pursuant to this notice they will remain available for sale on a continuing basis until sold or removed from the market.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: October 8, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-24716 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-DQ-M

[CA 16413]

California; Exchange of Public and Private Lands in Mendocino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document.

SUMMARY: The purpose of this exchange was to consolidate public and private lands within the King Range National Conservation Area. The public interest was well served through completion of this exchange.

EFFECTIVE DATE: September 17, 1985.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

The United States issued on exchange conveyance document to Marie A. Mills on September 17, 1985, under the Act of October 21, 1970 (84 Stat. 1067; 16 U.S.C. 460y), for the following described land:

Humboldt Meridian, California

T. 5 S., R. 2 E.,
Sec. 32, Lot 1 and Tract 39;
Containing 46.70 acres of public land.

In exchange for these lands, the United States acquired the following described land from Marie A. Mills:

Humboldt Meridian, California

T. 5 S., R. 2 E.,
Sec. 19, Lot 16;
Containing 40 acres of public land.

The values of the public land and private land in the exchange were equalized by a cash payment to the United States in the amount of $9,095.

Dated: October 9, 1985.

Sharon N. Janis,

Chief, Branch of Lands and Mineral Operations.

[FR Doc. 85-24793 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-40-M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet November 14 and 15, 1985. The meeting will be held in Room 7000 A&B of the Main Interior Building, 18th and C Streets NW., Washington, DC. The meeting hours will be 8:00 a.m. 5:00 p.m. on Thursday, November 14, and Friday, November 15. The proposed agenda for the 2-day meeting is:

Thursday, November 14

Morning: Assistant Secretary's Welcome and Overview; Discussion of Department responses to previous Council resolutions; Address by Secretary of the Interior; Report of the Part Protection Working Group; Update on Riparian Area Management Policy; Experimental Stewardship Program Report.

Afternoon: Public statement period; Update on Federal coal leasing and onshore oil and gas leasing programs; Meeting of Council subcommittees (Renewable Resources, Energy and Minerals, Lands, and Administrative/Legislative).

Friday, November 15

Morning: Impacts of Worst Case Analysis decisions on vegetation control programs; Report on wild horse and burro program; Council old and new business, to include dicussion of agendas for future Council sessions; Meeting of Council subcommittees.

Afternoon: Report form sub-committees to full Council; Discussion of subcommittee recommendations and passing of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make oral statements to the Council beginning at 1:00 p.m., Thursday, November 14. Speakers should address specific national public lands issues on the meeting agenda and are encouraged to submit a copy of their written testimony prior to oral delivery. Please send written comments by November 8 to the Bureau of Land Management's Washington Officer at the address listed below. Depending on the number of people who wish to address the Council, it may be necessary to limit the length of oral presentations.

DATES: November 14 and 15—Council Meeting. November 14—Public Statements.

ADDRESS: Copies of public statements should be mailed by November 8 to: Director, Bureau of Land Management (150), Room 5558 MIB, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Washington, DC Office, BLM, Telephone (202) 343-2054; or Charlie Most, Public Affairs Specialist, Washington, D.C. Office, BLM, Telephone (202) 343-5717.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope under the jursidiction of BLM.

Robert F. Burford,

Director.

October 11, 1985.

[FR Doc. 85-24732 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-84-M

[CA 16976, CA 16977, and CA 16978]

Noncompetitive Sale of Public Lands in Trinity County, CA; Realty Action

Correction

In FR Doc. 85-22075, appearing on page 37592 in the issue of Monday, September 16, 1985, make the following correction: In the second column, third line, "(CA 16976)" should read "(CA 16977)".

BILLING CODE 1505-01-M

Minerals Management Service

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders; Correction

The List of Restricted Joint Bidders, published on Friday, October 4, 1985, page 40618 of Volume 50, Number 193, column 1, line 11, should read April 30, 1986, not April 30, 1985.

Dated: October 10, 1985.

John B. Rigg,

Acting Director, Minerals Management Service.

[FR Doc. 85-24770 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., c.s.t., on December 2, 1985, at the Jefferson Parish East Bank Council Chamber, 3330 North Causeway Boulevard, Matairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Prairie Producing Corporation
—Land Acquisition Program
—General Management Plan Amendment—Chalmette
—Cooperative Agreements—Thibodaux and Lafayette

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, U.S. Customs House, 423 Canal Street, Room 206, New Orleans, Louisiana 70130, telephone 504/589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: October 8, 1985.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 85-24767 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held at the Department of the Interior, Room 5160, 18th and C Streets NW., Washington, DC, November 4, 5, and 6.

In its general business sessions on November 5, starting at 9 a.m., the Advisory Board will consider administrative matters pertaining to the Board; land acquisition within parks, historic leasing, archeology overview,

natural landmarks, travel and tourism, public participation on public lands, action on historic landmarks, National Register and resolutions.

The meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact David G. Wright, Associate Director, Planning and Development, Room 3130, National Park Service, Department of the Interior, Washington, DC 20240, (202-343-6741).

Summary minutes of the meeting will be available for public inspection 10-12 weeks after the meeting in Room 3212, Interior Building, 18th and C Streets NW., Washington, DC.

David G. Wright,

Associate Director, Planning and Development, National Park Service.

[FR Doc. 85-24768 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through December 1985

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the **Federal Register** December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1985. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notice of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein:

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334-9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Five IDs, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Brewster Flat ID, Chief Joseph Dam Project, Washington; Amendatory repayment contract; Land reclassification of approximately 360 acres to irrigable; Repayment obligation to increase by $189,000.

4. Individual irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon and Washington; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Fifty-three Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming; Contract amendments to extend term for which contract water may be subleased to other parties.

8. Cascade Reservoir water users, Boise Project, Idaho; Repayment contracts for irrigation and M&I water; 59,721 acre-feet of stored water in Cascade Reservoir.

9. Boise Water Corporation, Boise Project, Idaho; Short-term (2 years) M&I water service contract; up to 5,000 acre-feet annually from stored water in Anderson Ranch Reservoir.

10. Yakima-Tieton ID, Yakima Project Washington; Deferment contract to reschedule repayment of R&B obligation

11. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97-293).

Mid-Pacific Region: Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978-5030.

1. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice

published July 25, 1979, Vol. 44, Page 43535.

2. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

6. El Dorado ID, Sly Park Unit, CVP, California; D&MC contract to allow the District to accomplish the construction work with the remaining funds from the distribution system contract, and amend the Unit 4 portion of its existing repayment contract to pay interest on actual M&I use.

7. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

8. San Luis Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

9. Mid-Valley Water Authority, CVP, California; Temporary water supplies up to 100,000 acre-feet.

10. Solano ID, Solano Project, California; Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

11. City of Avenal, CVP, California; Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities and change the point of diversion.

12. Yuba County Water Agency, South County Irrigation Project, SRPA, California; Loan repayment contract, $18,500,000 proposed obligation.

13. ID's and similar water user entities; Amendatory repayment and water service contracts, including the amending of approximately 24 SRPA contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97-293).

14. United Water Conservation District, SRPA, California; Loan repayment contract, $18,730,000 proposed obligation.

15. State of Hawaii, Molokai Project, SRPA; Contract amendment to provide for use of facilities for M&I purposes.

16. Shasta Dam Area Public Utility District, CVP, California; Amendatory water service contract providing for increased M&I use to the district.

17. State of California, CVP, California; contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the current draft of the Coordinated Operations Agreement.

18. Pixley ID, SRPA, California; Loan repayment contract, $12,300,000 proposed obligation.

19. Century Ranch Water Company, Inc., CVP, California; Orland exchange, M&I, and water right settlement contract.

20. Kaiser Development Company, CVP, California; Sacramento River water right contract; Suspension of agricultural contract and execution of M&I contract.

21. Madera ID, Madera Canal, CVP, California, Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

22. Hills Valley ID, CVP, California; Amendatory water service contract additional 400 acre-feet.

23. Tri-Valley Water District, CVP, California; Amendatory water service contract, additional 160 acre-feet.

24. County of Tulare, CVP, California; Amendatory water service contract, additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

25. Truckee-Carson ID, Newlands Project, Nevada; Emergency Loan contract; Contract will assure repayment of funds to be provided by the United States for the emergency repair of the right sluice and right cylinder gates on Lahontan Dam and Reservoir.

26. Truckee-Carson ID, Newlands Project, Nevada; Warren Act contract to wheel 9,500 acre-feet of nonproject water through project facilities.

27. Colusa County WD, CVP, California; Proposed D&MC contract.

28. Colusa County WD, CVP, California; Proposed contract amendment to permit delivery of M&I water through existing 9(d) system.

29. Colusa County WD, CVP, California; Proposed contract amendment to provide M&I water to existing contract service area.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524-5435.

1. Individual irrigators, M&I, and miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. M&I water users, Navajo Unit, CRSP, New Mexico; Negotiate or amend long term contracts for M&I water with current long term and short term contractors or new contractors pursuant to section II of Pub. L. 87-483 and Hydrologic Determination dated January 29, 1985.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Repayment contract; 16,000 acre-feet per year for irrigation.

5. City of Farmington, Animas-La Plata Project, New Mexico; M&I repayment contract; 19,700 acre-feet per year.

6. City of Aztec, Animas-La Plata Project, New Mexico; M&I repayment contract; 5,800 acre-feet per year.

7. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I repayment contract; 5,300 acre-feet per year.

8. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I re payment contract for 94,100 acre-feet per year; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199. Final proposed draft contract available.

9. Southern Ute Indian Tribe, Colorado; Repayment contract for 26,500 acre-feet per year for M&I use and 3,300 acre-feet per year for irrigation use.

10. Dorchester Coal Company, Blue Mesa Reservoir, Colorado, Colorado River Storage Project; M&I water service contract, 400 acre-feet per year, for 40 years.

11. South Weber Water Improvement District, Weber Basin Project, Utah; Amendatory SRPA contract to extend payout period from 21 years to 40 years.

12. State of Wyoming, Seedskadee Project, Wyoming; Contract for repayment of reimbursable cost

associated with the modification of Fontenelle Dam pursuant to the Reclamation Safety of Dams Amendments of 1984 (Pub. L. 98–404).

13. Miscellaneous water users, Upper Colorado Region, Blue Mesa Reservoir, Colorado River Storage Project, Colorado, M&I uses, 20 acre feet and less for 20–40 years.

14. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

15. M&I water users, Navajo Unit, Colorado River Storage Project, New Mexico; Negotiate or amend long-term contracts for M&I water with current long-term and short-term contractors or new contractors pursuant to section II of Pub. L. 87–483 and Hydrologic Determination dated January 29, 1985.

16. Bonneville Unit, Central Utah Project, Utah; Two repayment contracts for repayment of Jordan Aqueduct with Salt Lake County Water Conservancy District and the Metropolitan Water District.

17. Upper Yampa Water Conservancy District, Colorado; Repayment contract to repay a loan of $4,478,000 for the construction of Stagecoach Dam and Reservoir pursuant to the SRPA of 1956, Pub. L. 48–984, as amended.

18. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico; Repayment Contract: 6,000 acre-feet per year for M&I use in Colorado; 25,800 acre-feet per year for irrigation use in Colorado; 800 acre-feet per year for irrigation use in New Mexico.

19. Navajo Indian Tribe, New Mexico; Repayment Contract for 7,600 acre-feet per year for M&I use.

20. Ute Mountain Ute Indian Tribe, Dolores Project, Colorado; Repayment contract for 1,000 acre-feet per year for M&I use and 22,900 acre-feet per year for for irrigation.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293–8536.

1. Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona; Amendatory D&MC contract for improvement of the Gila River within the district's boundaries; $6,000,000 of Federal funds to be utilized on a nonreimbursable basis pursuant to Pub. L. 98–396, August 21, 1984.

2. Agricultural and M&I water users, CAP, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Agricultural and M&I water users, CAP, Arizona; Contracts for repayment of Federal expenditures for construction of distribution systems.

4. Contracts with five agricultural entities located near the Colorado River in Arizona, Boulder Canyon Project; Water service contracts for up to 1,920 acre-feet per year total.

5. Gila River Indian Community, CAP, Arizona; Water service contract; Contract for delivery of up to 173,100 acre-feet per year.

6. Yuma-Mesa IDD, North Gila Valley ID, and Yuma ID, Gila Project, Arizona; Amendatory and supplemental contracts to conform to the provisions of Pub. L. 98–530.

7. Sunset Mobile Home Park, Boulder Canyon Project, Arizona; M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

8. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

9. Ak-Chin Indian Community, Maricopa, Arizona; Supplemental contract in accordance with the provisions of Pub. L. 98–530.

10. Gila River Indian Community, Arizona; Contract for the repayment of a $6,574,000 SRPA loan.

11. Water delivery contracts with the State of Arizona, the Bureau of Land Management, and several private entities which are in the process of being organized for a yet undetermined amount of Colorado River Water for M&I use. The purpose of these contracts is to afford legal status to various noncontractual water users within the State of Arizona.

12. Contract with the State of Arizona for a yet undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

Southwest Region: Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use.

2. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work.

3. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

4. Lavaca-Navidad River Authority, Palmetto Bend Project, Texas; Amendatory repayment contract to provide for increased payment for recreation.

5. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas; Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

6. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (Pub. L. 97–293).

7. Tom Green Water Improvement District San Angelo Project, Texas; Amendatory repayment contract to defer payment of construction charges associated with the 1984 crop year due to the nonavailability of irrigation water for use by the District's water users.

Upper Missouri Region: Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P-SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, page 19472.

3. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

4. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Oahe Unit, P-SMBP, South Dakota, Cancellation of master contract and participating and security contracts in accordance with Pub. L. 97–273 with South Dakota Board of Water and Natural Resources Spink County and West Brown Irrigation Districts.

6. Owl Creek ID, Owl Creek Unit, P-SMBP, Wyoming; Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

Lower Missouri Region: Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 236-0595.

1. Almena ID No. 5, Almena Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

2. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatory repayment contract for extension of the development period and revision of the repayment determination methodology.

3. Corn Creek ID, New Grattan Ditch Company, Earl Michael, Glendo Unit, P-SMBP Wyoming, and Nebraska; Irrigation contracts.

4. Webster ID No. 4, Webster Unit, P-SMBP, Kansas; Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $970,816 outstanding.

5. Green Mountain Reservoir, Colorado-Big Thompson Project; Proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River drainage of western Colorado.

6. Individual irrigators, M&I, and miscellaneous water users, Lower Missouri Region, southeastern Wyoming, Colorado, Nebraska, and northern Kansas; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

7. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado; Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

8. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97-293).

9. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, P-SMBP, Narrows Unit, Colorado; Water service contracts for repayment of costs and cost sharing agreement.

10. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

11. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas; Irrigation water service and repayment contract and Emergency Drought Act loan contract amendment to adjust payments due to reduced water supply, $866,231 outstanding.

12. Cedar Bluff ID No. 6, Cedar Bluff Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

13. Webster ID No. 4, Webster Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

14. Fryingpan-Arkansas Project, Colorado; East Slope Storage system consisting of Pueblo, Twin Lakes, and Turquoise Reservoir; Contract negotiations for long term storage contracts.

15. Twin Loups Reclamation District, P-SMBP; D&MC contract and a sole source contract for correction of initial construction deficiencies and monitoring during initial filling, priming and puddling activities of the project. Proposed contracts are to be $500,000 and $1,439,000, respectively.

16. Farwell Irrigation District, Nebraska; Request for D&MC contract for the correction of drainage and seep area on the project.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties which requested the contract in response to the initial public notice.

Dated: October 10, 1985.

William C. Klostermeyer,

Acting Commissioner of Reclamation.

[FR Doc. 85-24759 Filed 10-16-85; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume OP2-468]

Motor Carrier Applications To Consolidate, Merge or Acquire Control Under 49 U.S.C. 11343-11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. If the protest includes a request for oral hearing, the request shall meet the requirements of 49 CFR 1182.3 and shall include the required certification. Failure seasonable to oppose will be construed as a waiver of opposition and participation in the proceeding.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compilance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Findings

The findings for these applications are set forth at 49 CFR 1182.6.

MC–F–16684, filed September 3, 1985. Lakeland Bus Lines, Inc. (Lakeland) (425 E. Blackwell St., Dover, NJ 97801)—Purchase (Portion)—Melni Bus Service, Inc. (Melni) (29 River Rd., Chatham, NJ 07928). Representatives: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, and Jeremy Kahn, 1726 M Street NW., Suite 702, Washington, DC 20036. Lakeland (MC–109802) seeks authority to purchase a portion of the operating authority of Melni (MC–1423), specifically its regular-route passenger authority contained in its Sub-Nos. 1 and 4 certificates. These certificates authorize the transportation of (1) passengers and their baggage, in the same vehicle with passengers, and express and newspapers, between Madison, NJ, and New York, NY: from Danforth Rd. and Park Ave., Madison, NJ, to Main St., then over Green Village Rd. to Shunpike Rd., then over Green Village Rd. to Hictory Place, then over Hickory Place to Southern Blvd., then over Southern Blvd. to Shunpike Rd., then over Shunpike Rd. to Chatham Township Line at Noe Ave., then over Noe Ave. to Watchung Ave., then over Watchung Ave. to Summit Line at Ciba, then over River Rd., Summit, NJ, to Kennedy Blvd., then over Kennedy Blvd. to Canoe Brook Rd., then over NJ Hwy 24 to Newark International Airport, then over the New Jersey Turnpike, Interstate Hwy 95, to the Lincoln Tunnel, then through the Lincoln Tunnel to the New York Port Authority Terminal at New York, NY, and return over the same route, serving the intermediate points of Green Village, New Vernon, Chatham, Chatham Township, and Summit, NJ, and (2) passengers, (a) between the intersection of the New Jersey Turnpike Extension and Interstate Hwy 95, and New York, NY: over NJ Turnpike Extension from its intersection with Interstate Hwy 95 to the Holland Tunnel, then through the Holland Tunnel to New York, NY, and (b) between Chatham Township, NJ, and the intersection of River Rd. and Watchung Ave. over Mt. Vernon Ave. to River Rd., then over River Rd. to Watchung Ave., serving all intermediate points in (2)(a) and (2)(b) above. Lakeland presently provides interstate, regular-route bus service between points in Morris, Sussex, Warren, Passaic, Essex, Union, and Somerset Counties, NJ, on the one hand, and, on the other, New York, NY. Lakeland also provides bus service in (1) interstate charter and special operations, and (2) intrastate charter and special operations within the State of New Jersey. Lakeland is controlled through stock ownership by George J. York, Marta M. Mazzarisi, Maureen Leo, Maria L. Flynn, Charles Deubel III (as Trustee for Marta M. Mazzarisi and Maureen Leo), and Azteca and Associates. Azteca Associates also controls Trasportes Azteca (MC–124090), a motor common carrier of property.

An application for temporary authority to lease the involved operating rights has been granted by the Motor Carrier Board.

James H. Bayne,

Secretary.

[FR Doc. 85–24743 Filed 10–16–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated May 20, 1985, and published in the **Federal Register** on June 4, 1985; (50 FR 23537), Smithkline Chemicals Division, Smithkline Corporation, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I.
Amphetamine (1100)	II.
Phenylacetone (8501)	II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated October 9, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–24771 Filed 10–16–85; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted 30 days after publication.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786–0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 786–0233 from whom copies of forms and documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instructions Forms for the Tools Category
Form No.: Not Applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Application for funding
Estimated Number of Respondent: 119
Estimated Hours for Respondents to Provide Information: 6,188

Title: Applications and Instructions Forms for the Access Category

Form No.: Not Applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Application for funding
Estimated Number of Respondent: 170
Estimated Hours for Respondents to Provide Information: 10,200

Susan Metts,

Acting Director of Administration.

[FR Doc. 85-24753 Filed 10-16-85; 8:45 am]

BILLING CODE 7536-01-M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Extension of Application Deadline Data

The deadline for application for a White House Fellowship has been extended from November 15 to November 30, 1985. Please call or write the President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, D.C. 20503, 202-395-4522, for application materials and information.

Charles L. Heatherly,

Director, President's Commission on White House Fellowships.

[FR Doc. 85-24655 Filed 10-16-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23860; 70-7150]

The Southern Co. and Southern Electric International, Inc.; Proposal To Issue and Sell Unsecured Notes to Parent and/or Non-Affiliates; Guarantee by Parent; Exception From Competitive Bidding

October 9, 1985.

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and Southern Electric International, Inc. ("SEI"), 3500 Piedmont Road, N.E., Atlanta, Georgia 30305, a wholly owned subsidiary of Southern engaged in marketing of electric system capabilities and expertise, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45 and 50(a)(5) thereunder.

SEI is involved in a number of projects which call for delayed payments to SEI in certain projects pending reaching certain milestones in the project, delayed payments to SEI in certain projects pending acceptance of the project by the client, prompt payment by SEI to associate companies for their services provided to SEI's customers, and delayed payment to SEI for the cost of design and construction of a cogeneration small power production facility, pending a satisfactory acceptance test of the facility by its owners.

To meet these and other working capital requirements, SEI proposes to issue and sell unsecured notes from time to time prior to October 1, 1987, maturing no later than December 31, 2000, in the aggregate principal amount not to exceed $75,000,000 at any one time outstanding. It is proposed that such notes, or any part of them, may be issued and sold either to Southern or to a lender or lenders other than Southern. It is anticipated that any notes sold to a lender other than Southern may be guaranteed by Southern as to principal, premium, if any, and interest.

Notes sold to Southern shall bear interest at a rate not to exceed the prime rate in effect on the date of issuance at a bank designated by Southern. Notes sold to lenders other than Southern shall bear interest at a rate not to exceed 2% over the prime rate. In connection with any such sale, a commitment fee may be paid in an amount not greater than ½ of 1% of the principal amount of the note. It is further proposed that up to $30,000,000 of the notes issued to Southern hereunder may, at the option of Southern, be converted to capital contributions to SEI through Southern's forgiveness of the debt represented thereby.

It is requested that the Commission issue its order herein exempting the proposed notes from the competitive bidding requirements of Rule 50(a)(5) as such requirements are impracticable with respect to such notes and are unnecessary for the protection of investors or consumers to assure the maintenance of competitive conditions.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 4, 1985 to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service by affidavit or, in case of an attorney at law, by certificate, should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24777 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14751; File No. 812-6149]

Application and Opportunity for Hearing; the Variable Annuity Life Insurance Company et al.

October 10, 1985.

Notice is hereby given that the Variable Annuity Life Insurance Company (the "Company") The Variable Annuity Life Insrance Company Separate Account A ("the Separate Account"), and the Variable Annuity Marketing Comapny (collectively referred to as "Applicants"), at 2929 Allen Parkway, Houston, Texas 77019, filed an application on July 5, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemption from sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a morality risk charge from the assets of the Separate Account in connection with the issuance by the Company of certain newly designed group and individual variable annuity contracts (the "Contracts"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of relevant provisions.

Applicants state that the Company is a Texas stock life insurance company and is an indirectly wholly-owned subsidiary of American General Corporation. Applicants state that the Variable Annuity Marketing Company is the principal underwriter of the Separate Account and is a registered broker-dealer. Applicants further state that the Separate Account was established by the Company on April 12 1979, in accordance with the Texas Insurance Code, and that it is a separate investment account to which owners of variable annuity contracts may allocate

net purchase payments to support benefits payable under the contracts.

Applicants further state that the Separate Account is registered under the Act as a unit investment trust and will invest assets related to the Contracts soley in shares of American General Series Portfolio Company.

Applicants state that the Contracts provide for a surrender charge upon a total or partial surrender of a Contract prior to the annuity date in an amount equal to 5 percent of the lesser of all purchase payments made in the most recent 60 months, or the amount withdrawn, except that no surrender charge will be assessed against the first partial surrender in any contract year of 10 percent or less of the accumulation value. Applicants acknowledge that the surrender charge may be insufficient to cover all costs relating to distribution of the Contracts. An annual maintenance fee of $20.00 the first year and $15.00 each year thereafter prior to the annuity date will be assessed against a Contract's accumulation value. Applicants state that this fee is designed to reimburse the Company for certain administrative expenses and is designed to be no greater than the estimated cost of the services provided for one year. Applicants further state that an additional administrative charge is assessed daily against the Separate Account assets at an annualized rate of 0.20 percent of the average daily net asset value of the Separate Account attributabel to the Contracts. Applicants represent that this charge is intended to supplement the annual maintenance fee, and together with the annual maintenance fee, the charge is designed to be no greater than the estimated cost of the services provided.

Applicants state that a charge is assessed daily against the Separate Account assets at an annualized rate of 0.80% of the average daily net asset value of the Separate Account attributable to the Contracts. According to the application, the charge is intended to compensate the Company for assuming the risk that its actuarial estimate of mortality rates may prove erroneous (*i.e.*, the risk that the contractowner may receive annuity benefits for a period longer than that reflected in the Contract's annuity rates or may die at a time when the death benefit guaranteed by the Contract is higher than the accumulation value of the Contract); Applicants represent that the accumulation amount used to purchase the annuity is applied at annuity rates guaranteed in the Contract. Applicants further represent that the mortality risk charge, which is guaranteed and will never be increased, is within the range of industry practice for comparable annuity contracts issued by other insurance companies, based on the Company's analysis of publicly available information about such other contracts, taking into consideration the particular annuity features of the comparable contracts, including such factors as current charge levels, charge level or annuity rate gurantees, the manner in which the charges are imposed, and the markets in which the Contracts will be offered. Applicants state that the Company has incorporated the identity of the products analyzed and its analysis into a memorandum which it will maintain and will be available to the Commission or its staff upon request.

Applicants represent that under certain circumstances, a portion of the mortality risk charge could be viewed as providing for a portion of the costs relating to distrubution of the Contracts. Applicants state that the Company has concluded there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and owner of the Contracts. Applicants state that the Comapny has taken into consideration, among other things, that the sales load is imposed only if a contractowner surrenders the Contract and that, in the interim, those funds are invested on behalf of contractowners. Applicants represent that the bases for the Comapny's conclusion have been incorporated into a memornadum, which the Company will maintain and make available to the Commission or its staff upon request.

The Company represents that the assets of the Separate Account will be invested only in a management investment company which undertakes, in the event it should adopt a plan for financing distribution expenses pursuant to Rule 12b-1 under the Act, to have such plan formulated and approved by a board of directors, the majority of whom are not "interested persons" of the management company within the meaning of section 2(a)(19) of the Act.

Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the assessment of the mortality risk charge. Applicants represent that their exemptive requests meet the standards set out in section 6(c) of the Act and that an order should, therefore, be granted.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 1, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority

John Wheeler,

Secretary.

[FR Doc. 85-24778 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23861; 70-7036]

Yankee Atomic Electric Co.; Proposal To Increase Short Term Borrowing

October 7, 1985.

Yankee Atomic Electric Company ("Yankee Atomic"), 1671 Worcester Road, Framingham, Massachusetts 01701, an electric utility subsidiary of New England Electric System and Northeast Utilities, registered holding companies, has filed a post-effective amendment to its application-declaration with this Commission pursuant to sections 6, 7, 9 and 10 of the Public Utility Holding Company Act of 1935 and Rules 42(b)(2), 50(a)(2) and 50 (a)(5) thereunder.

Yankee Atomic Electric Company (Yankee Atomic) proposes to increase its aggregate short-term borrowing authorization from the $15 million approved by the commission in its Order of December 19, 1984 (HCAR No. 23536) to $25 million. Under its currently approved short-term borrowing, Yankee Atomic is authorized to issue and sell up to $15 million of short-term notes to banks and/or commercial paper to dealers through December 31, 1986. Yankee Atomic, a utility whose major asset is a first generation nuclear power plant is requesting this additional authorization of $10 million for short-term capital requirements.

Yankee Atomic has negotiated an increase in its credit line from $15 million to $20 million under its Operating/Standby Agreement with The Bank of Nova Scotia and The Bank of Nova Scotia International Limited. In

connection with this increase, The Bank of Nova Scotia has agreed to reduce its rate per annum for base rate advances to a rate equal to its base rate, and The Bank of Nova Scotia International Limited has agreed to reduce its rate per annum for LIBO rate advances to rate equal to ½ of 1% above the Bank's 1, 2, 3, 6, or 9-month LIBO rate as selected from time to time by Yankee Atomic. Also, these banks have agreed to reduce the standby fee to ¼ of 1% per annum on the average daily unborrowed portion of the credit line. Assuming borrowings at the maximum amount of these lines of credit, based on the current base rate of 9.500% and using the 6-month LIBO rate of 8.375%, the effective interest cost to Yankee Atomic under borrowings with The Bank of Nova Scotia and The Bank of Nova Scotia International Limited would be 9.500% and 8.875%, respectively. Assuming borrowings at the maximum amount of the line of credit, using the 9-month LIBO rate of 8.625%, the effective interest cost to Yankee Atomic; under borrowings with The Bank of Nova Scotia International Limited would be 9.125%.

Yankee Atomic has also negotiated a new $5 million short-term borrowing credit line from The National Westminster Bank USA. Voluntary prepayment, in whole or in part, is not subject to premium or penalty. However, if Yankee Atomic makes a voluntary prepayment on advances by this Bank, on a date other than a rollover date, Yankee Atomic is required to compensate this rank for any loss or expense it might incur as a result of such payment. Under this credit line, advances made by this Bank shall bear interest at the following rates per annum: (i) Prime rate advances at a rate equal to this Bank's prime rate; (ii) certificate of deposit rate advances at a rate equal to ⅝ of 1% above this Bank's 90-day certificate of deposit rate; and (iii) LIBO rate advances at a rate equal to ½ of 1% above this Bank's 1, 2, 3, 6, or 9-month LIBO rate as selected from time to time by Yankee Atomic. The standby fee on the average daily unborrowed portion of this credit line is to be ⅜ of 1% per annum. Assuming based on a current base rate of 9.500%, current 90-day certificate of deposit rate of 7.6875%, current 6-month LIBO rate of 8.375%, and current 9-month LIBO rate of 8.625%, the effective interest costs to Yankee Atomic would be 9.500%, 8.3125%, 8.875%, and 9.125%, respectively.

Yankee Atomic will not issue any commercial paper notes have a maturity of more than 90 days if the effective interest cost of such notes would exceed the effective interest cost at which Yankee Atomic could borrow from The Bank of Nova Scotia or The Bank of Nova Scotia International Limited or National Westminster Bank USA.

Yankee Atomic is not requesting any extension of its short-term borrowing authorization beyond December 31, 1986, as currently authorized.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 4, 1985 to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission by the Division of Investment Management pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24779 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8733]

Issuer Delisting; Application To Withdraw From Listing and Registration; Nord Resources Corp.

October 8, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the Common Stock, par value $.01 per share, of Nord Resources Corporation ("Company") from listing and registration on the American Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the New York Stock Exchange and the American Stock Exchange. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before October 29, 1985, submit by letter to the Secretary of the Securities and Exchange Commission Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24772 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22521; File Nos. SR-OCC-85-15]

Self-Regulatory Organizations; Options Clearing Corp.; Filing of Proposed Rule Change

October 9, 1985.

The Option Clearing Corporation ("OCC") on September 6, 1985, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). OCC's proposal permits OCC Clearing Members who carry accounts for, or are themselves, market-makers or specialists in underlying stocks to carry options positions on those stock ("specialty options") in a separate stock market-maker's or stock specialist's account with OCC.[1] The Commission is publishing this notice to solicit public comment on the proposal.

OCC's proposal would amend OCC By-Law Article VI, Section 3, to authorize Clearing Members to open stock market-maker's and stock specialist's options accounts.[2] The

[1] The proposal also would add to OCC By-Law Article I, Section 1, definitions for "stock market-maker" and "stock specialist."

[2] Under the proposal, those accounts would be treated the same as options market-maker accounts with respect to OCC margin and other requirements. For example, under OCC Rule 601, greater margin credit is given to certain long positions carried in firm and market-maker accounts than would be given to the same positions carried in a customer account.

proposal specifically would limit these accounts to processing stock market-maker would limit these accounts to processing stock market-maker and stock specialist transactions in specialty options. The proposal generally would not permit a stock market-maker or stock specialist to use a "combined market-makers' or specialists' account" because that account type would enable the stock market-makers or specialist to commingle its specialty options positions with other market-makers' or specialists' options positions. The proposal also would not allow use of the new account by stock market-makers or stock specialists that are market-makers, specialists or registered traders in specialty options. Those stock market-makers or stock specialists would have to carry those options positions in a separate or combined market-maker or specialist account under current OCC By-Law Article VI, section 3(b) and (c). To implement these By-Law changes, OCC's proposal includes revisions to OCC's existing Market-Maker's, Specialist's or Registered Trader's Account Agreement. Those revisions adapt the agreement for use by stock market-makers and stock specialists. In addition, the proposal contains corresponding revisions to OCC's Joint Account Agreement for Market-Makers, Specialists and Registered Traders, which would be used if two or more stock market-makers or stock specialists choose to open a joint account.

OCC's states in its filing that the proposal is meant to facilitate surveillance of stock market-maker and stock specialist specialty options trading. Stock market-makers and stock specialists were prohibited from trading in options on their specialty stocks until February 4, 1985, when the Commission approved a New York Stock Exchange proposed rule change allowing such trading only for the purposes of hedging the risks of making a market in the specialty stocks.[3]

OCC believes that the proposal is consistent with the Act in general, and with Section 17A of the Act in particular, because it facilitates the prompt and accurate clearance and settlement of options transactions of market-makers and specialists. In addition, OCC believes that the proposal is consistent with the Act because it facilitates careful monitoring of specialty options trading by stock market-makers and stock specialists.

[3] *See* Securities Exchange Act Release No. 21710 (February 4, 1985), 50 FR 5706 (February 11, 1985).

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. and at OCC's principal office.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission invites public comment on the proposal. Comments should refer to File No. SR-OCC-85-15. Please file six copies of comments with the Secretary of the Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, by November 7, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24773 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22515; File No. SR-PSE-85-20]

Self-Regulatory Organization; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Pacific Stock Exchange, Inc. ("PSE") submitted on July 23, 1985 copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act which would initiate the second phase of its specialist expansion program to create eleven new specialist posts on the PSE. On December 18, 1984, the Commission approved a PSE rule filing which amended certain portions of the Exchange's pilot program for the appointment and evaluation of specialists and the creation of new specialist posts ("pilot program") in connection with its proposed specialist post expanison program.[1] The program was designed to provide for the creation of twenty new specialist post in two separate phases. Phase I of the expansion modified existing rules and procedures of the pilot program on a temporary basis and only with respect to the application for the approval of nine additional specialist posts which the Exchange created during the first quarter of 1985. The PSE has now filed its proposal to initiate Phase II of the expansion program, to provide for the authorization of the remaining eleven new specialist posts. The Exchange is establishing five new posts in San Francisco and six in Los Angeles which it plans to initiate during the fourth quarter of 1985.

The PSE has stated in its filing that the requirements and procedures to be followed in this second phase of the post expansion program will be substantially the same as those utilized under its first phase. When a new specialist post is approved by the Exchange, the specialist will select stocks from a list of stocks submitted by each existing specialist on the equity trading floor on which the new specialist is to be located. Each existing specialist is permitted to exclude from the list all local issues and may exempt a number of the post's remaining dually traded issues, based upon the rating received by the specialist under the pilot program during the four most recent quarterly evaluations.[2] Specificially, specialists rated below 75 are permitted to freeze 11 dually traded issues. Those specialists rated 75 or above, but below 80, would be permitted to freeze 12 dually traded issues; specialists rated 80 or above, but below 90, 14; and 90 or above, 15. Although all specialists are permitted to freeze local issues, special order flow arrangements will not be considered as a basis on which to exclude dually-traded issues from the selection process. The PSE has stated that the sole modification to procedures utilized under the first phase is that under Phase II the Board will provide the expansion applicants an opportunity to make oral presentations before the Board.

Each expansion post will be permitted to select up to 15 common stocks in the expansions process, but no more than one stock may be selected by each expansion post from any existing specialist post. The minimum number of stocks to be traded on any specialist post is ten, and applies to both expansion and existing posts. These expansion posts will be exempt from the selection process in subsequent

[1] *See* Securities Exchange Act Release No. 21578, December 18, 1984, 49 FR 50349, December 27, 1984 (File No. SR-PSE-84-18) for a discussion of the pilot program and Phase I of the expansion program.

[2] Under the pilot program, PSE specialists are rated on three separate measures of performance on a quarterly basis: (1) The specialist evaluation questionnaire; (2) national market system quote performance; and (3) SCOREX performance. The Commission approved the adoption of the pilot program (SR-PSE-81-5 on May 27, 1981. (Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30016, June 4, 1981). The program subsequently was extended several times by the Commission. The Commission most recently approved an extension of the pilot program until December 31, 1985 (Securities Exchange Act Release No. 22513, October 7, 1985) (File No. SR-PSE-85-29).

expansions for a period of one year from commencemnet of operation of the post.

The PSE has stated in its filing that the decision to retain the same procedures under Phase II was based on the favorable progress of the new posts. The Exchange also has noted that the Specialist Committee has reviewed progress of the new posts and has made the determination that it is appropriate that Phase II should continue in the same manner as Phase I.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22352, August 23, 1985) and by publication in the **Federal Register** (50 FR 35343, August 30, 1985). No comments were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 9, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24774 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

October 9, 1985.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Novo Industri
American Depository Receipts (File No. 7-8627)
Calfe, Inc.
Common Stock, $1.00 Par Value (File No. 7-8628)
Duquesne Light Company
Common Stock, $1.00 Par Value (File No. 7-8629)
Pillsbury Company
Common Stock, No Par Value (File No. 7-8630)
Morton Thiokol, Inc.
Common Stock, $1.00 Par Value (File No. 7-8631)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24775 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 9, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

The Home Depot, Inc.
Common Stock, $0.05 Par Value (File No. 7-8632)
Cenergy Corporation
Common Stock, $0.25 Par Value (File No. 7-8633)
Gates Learjet Corporation
Common Stock, $1.00 Par Value (File No. 7-8634)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 29, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if if finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24776 Filed 10-16-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2206; Amdt. #1]

Declaration of Disaster Loan Area; Michigan; Correction

The above-numbered Declaration (50 FR 38937) is hereby amended in accordance with the President's declaration of September 18, 1985, to include Iosco County as an adjacent county because of damage from flooding beginning on or about September 5, 1985. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on November 18, 1985, and for economic injury until the close of business on June 18, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

This document corrects a notice that appeared in the **Federal Register** of Friday, October 4, 1985, (50 FR 40644).

Dated: October 4, 1985.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 85-24725 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2206; Amdt. #2]

Declaration of Disaster Loan Area; Michigan

The above-numbered Declaration (50 FR 38937) and Amendment #1 (50 FR 40644) are amended in accordance with the President's declaration of September 18, 1985, to include Shiawassee County as an adjacent county because of

damage from a flooding beginning on or about September 5, 1985. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on November 18, 1985, and for economic injury until the close of business on June 18, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 3, 1985.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 85-24726 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2291; Amdt. #2]

Declaration of Disaster Loan Area; Mississippi

The above-numbered Declaration (50 FR 37459) and Amendment #1 (50 FR 40098) are amended in accordance with the amendment to the President's declaration of September 4, 1985, to include Stone County as an adjacent area in the State of Mississippi as a result of damage from Hurricane Elena and flooding beginning on or about September 2, 1985. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on November 4, 1985, and for economic injury until the close of business on June 4, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 19, 1985.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 85-24727 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2209]

Declaration of Disaster Loan Area; North Carolina

The County of Dare and the adjacent Counties of Hyde, Tyrrell and Currituck in the State of North Carolina constitute a disaster area because of damage caused by Hurricane Gloria which occurred on September 27, 1985. Applications for loans for physical damage may be filed until the close of business on December 5, 1985, and for economic injury until the close of business on July 7, 1986, at the address listed below: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., S.W., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

The interest rates are:

Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and Religious Organizations)	11.125

The number assigned to this disaster is 220908 for physical damage and for economic injury the number is 633800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 4, 1985.

Robert A. Turnbull,

Associate Deputy Administrator for Management and Administration.

[FR Doc. 85-24728 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; California; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting at 10:00 a.m. Tuesday, November 12, 1985, 211 Main Street, 11th Floor Conference Room, San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Lawrence J. Wodarski, District Director, U.S. Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105, (415) 974-0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 8, 1985.

[FR Doc. 85-24729 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; California; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, will hold a public meeting at 9:00 a.m. on November 21, 1985, at the Fresno District Office, 2202 Monterey Street, Suite 108, Fresno, California, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Peter J. Bergin, District Director, U.S. Small Busniess Administration, 2202 Monterey Street, Suite 108, Fresno, California, 93721, (209) 487-5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 8, 1985.

[FR Doc. 85-24730 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Regional IV Advisory Council; Kentucky; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting from 9:30 a.m. Friday, November 15, 1985, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members and staff of the U.S. Small Business Administration, P.O. Box 2517, Louisville, KY 40201, (502) 582-5971.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 8, 1985.

[FR Doc. 85-24733 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Massachusetts Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Boston, will hold a public meeting from 1:00 p.m. Thursday, November 7, 1985, in the District Director's Conference Room, 150 Causeway Street, 10th Floor, Boston, Massachusetts, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call John T. McNally, Jr., District Director, U.S. Small Business Administration, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114, telephone no. (617) 223-4074.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 9, 1985.

Dated: October 8, 1985.

[FR Doc. 85-24734 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Nebraska; Public Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting from 10:00 a.m. to 2:30 p.m., on

Monday, November 18, 1985, at the Omaha Club, 20th & Douglas, Omaha, Nebraska, 68102, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Rick Budd, District Director, U.S. Small Business Administration, 19th & Farnam, Omaha, Nebraska, 68102; phone (402) 221-3620.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 9, 1985.

Dated: October 9, 1985.

[FR Doc. 85-24735 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; New Jersey; Public Meeting

The Small Business Administration, Region II Newark District Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 AM on Tuesday, October 22, 1985, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 7, 1985.

[FR Doc. 85-24736 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; New York Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, will hold a public meeting at 9:30 a.m., Thursday, November 14, 1985, at the Federal Building, Room 1117, 100 South Clinton Street, Syracuse, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260, (315) 423-5371.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 8, 1985.

[FR Doc. 85-24737 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting; Texas; Public Meeting

The Small Business Administration—Region VI—Advisory Council, located in the geographical area of Houston, Texas, will hold a public meeting from 10:00 a.m. until 3:00 p.m., Tuesday, October 29, 1985, at the Hilton Hotel, located at 801 University Drive, College Station, Texas 77840. This meeting will be conducted to discuss such business as may be presented by members of the District Council, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Donald D. Grose, District Director, U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054, (713) 660-4409.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 8, 1985.

[FR Doc. 85-24738 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Iowa; Public Meeting

The Small Business Administration Region VII Advisory Council will hold a public meeting at 9:00 a.m. on Wednesday, November 6, 1985, at the Junior Achievement Building, 330 Collins Road NE, Cedar Rapids, Iowa, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Ralph W. Potter, District Director, United States Small Business Administration, 373 Collins Road NE, Cedar Rapids, Iowa 52402, telephone number (319) 399-2571.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 7, 1985.

[FR Doc. 85-24731 Filed 10-16-85; 8:45 am]

BILLING CODE 8025-01

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Service Station at Las Vegas, NV; Closing

Notice is hereby given that on or about September 27, 1985, the Flight Service Station at Las Vegas, Nevada, will be closed. Services to the general aviation public of Las Vegas, formerly provided by this office, will be provided by the Flight Service Station in Reno, Nevada. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Los Angeles, CA, on September 10, 1985.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc. 85-24695 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Los Angeles, CA; Closing

Notice is hereby given that on or about September 30, 1985, the Flight Service Station at Los Angeles, California, will be closed. Services to the general aviation public of Los Angeles, formerly provided by this office, will be provided by the Flight Service Station in Hawthorne, California. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Los Angeles, CA, on September 10, 1985.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc. 85-24697 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Phoenix, AZ; Closing

Notice is hereby given that on or about September 27, 1985, the Flight Service Station at Phoenix, Arizona, will be closed. Services to the general aviation public of Phoenix, formerly provided by this office, will be provided by the Flight Service Station in Prescott, Arizona. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Los Angeles, CA, on September 10, 1985.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

H.C. McClure,

Director, Western-Pacific Region.

Radio Technical Commission for Aeronautics (RTCA), Special Committee 156—Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance System to be held on November 7-8, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Meeting Held on July 23-24, 1985; (3) Review of Task Assignments for Previous Meeting; (4) Review of the Final Committee Report; (5) Assignment of New Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C., 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 8, 1985.

Karl F. Bierach,

Designated Officer.

[FR Doc. 85-24699 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Bristol County, MA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge replacement project in Bristol County, in the towns of Berkley and Dighton, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Arthur Churchill, District Engineer, Federal Highway Administration, 55 Broadway, Cambridge, Massachusetts 02142, telephone: (617) 494-2518; or Robert McDonagh, Chief Engineer, Massachusetts Department of Public Works, 10 Park Plaza, Boston, Massachusetts 02116, telephone: (617) 973-7830.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Massachusetts Department of Public Works, will prepare an environmental impact statement (EIS) on a proposal to replace the Berkley-Dighton Bridge spanning the Taunton River in Bristol County, Massachusetts. Replacement is considered necessary due to the deteriorated condition and reduced carrying capacity of the existing bridge.

Alternatives under consideration include (1) taking no action; (2) reconstruction of the existing bridge; (3) construction of a new bridge in the same alignment; (4) construction immediately to the north of the existing alignment; (5) construction immediately to the south of the existing alignment. Incorporated into and studied with the various build alternatives will be design variations of fixed and moveable spans.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, Regional and local agencies, and to private organizations and citizens who have previously expressed interest interest in the proposal. Scoping meetings were held on April 23, 1985 at 1 P.M. and at 6 P.M. at the Massachusetts Department of Public Works, District #6, 1000 County Street, Taunton, Massachusetts 02780. The purpose of the meetings was to identify the issues and concerns to be addressed in an Environment Impact Statement. Additional public meetings will be held through the development of the Environmental Impact Statement. Public notice will be given of the time and place of all meetings. The Draft EIS will be available for public and agency review and comment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued On: October 9, 1985.

A.R. Churchill,

District Engineer.

[FR Doc. 85-24717 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Guilford and Randolph Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Guilford and Randolph Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Kenneth L Bellamy, Division Administrator, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856-4270.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) on a proposed US 311 bypass of High Point in Guilford and Randolph Counties. The proposed action would be the construction of a controlled-access highway on new location from US 311 north of High Point to US 311 in Randolph County around the northeast side of High Point. The proposed bypass is needed to serve the projected traffic demand along US 311 corridor and to relieve traffic along Main Street in downtown High Point. The proposed action is a major part of the city's thoroughfare plans for an outer loop of High Point.

Alternatives under consideration include (1) the "no-build," (2) improving existing facilities, and (3) a controlled access highway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and a meeting with local officials will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concening the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local

clearinghouse review of Federal and federally assisted programs and projects apply to this program).

Issued on: October 8, 1985.

J.M. Tate,

District Engineer.

[FR Doc. 85-24718 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Kushan Sculpture: Images from Early India" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between The Cleveland Museum of Art, the Asia Society Galleries, and the Settle Art Museum. I also determine that the temporary exhibition or display of the listed exhibit objects at the Cleveland Museum of Art, Cleveland, Ohio, beginning on or about November 13, 1985, to on or about January 5, 1986; the Asia Society Galleries, New York, New York, beginning on or about Februrary 13, 1986, to on or about April 6, 1986; and the Seattle Art Museum, Seattle, Washington, beginning on or about May 8, 1986, to on or about July 13, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: October 11, 1985.

C. Normand Poirier,

Acting General Counsel and Congressional Liaison.

[FR Doc. 85-24769 Filed 10-16-85; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 50, No. 201
Thursday, October 17, 1985

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).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, October 21, 1985, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Litigation Authorization: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. [In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.]

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: October 15, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued October 15, 1985.

[FR Doc. 85–24872 Filed 10–15–85; 1:10 pm]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:45 p.m. on Thursday, October 10, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Canton, Canton, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, October 10, 1985; (2) accept the bid for the transaction submitted by Community State Bank of Canton, Canton, Oklahoma, a newly-chartered State nonmember bank; (3) approve the applications of Community State Bank of Canton, Canton, Oklahoma, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in Bank of Canton, Canton, Oklahoma, and for consent to establish the sole branch of Bank of Canton as a branch of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael Patriarca, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (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)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 11, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary

[FR Doc. 85–24866 Filed 10–15–85; 12:21 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, October 21, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 11, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary

[FR Doc. 85–24867 Filed 10–15–85; 12:21 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

at 2:30 p.m. on Monday, October 21, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 11, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–24868 Filed 10–15–85; 12:21 pm]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 22, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, October 24, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC. (Fifth Floor.)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Draft AO 1985–27
  Loren D. McManus, on behalf of R.J. Reynolds Industries, Inc.
Draft AO 1985–30
  Marjorie S. Holt, Friends of Marjorie Holt Committee
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85–24905 Filed 10–15–85; 2:10 pm]

BILLING CODE 6715–01–M

6

LEGAL SERVICES CORPORATION

Committee on Audit and Appropriations

TIME AND DATE: Meeting will commence at 1:30 p.m., Friday, October 25, 1985 and continue until all official business is completed.

PLACE: Capitol Holiday Inn, Lewis Room, 550 C Street, SW., Washington, D.C. 20024.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Revision of the Audit and Accounting Guide

CONTACT PERSON FOR MORE INFORMATION: Joel Thimell, Executive Office, (202) 863–1839.

Date issued: October 15, 1985.

Timothy Baker,

Secretary to the Board.

[FR Doc. 85–24889 Filed 10–15–85; 1:14 pm]

BILLING CODE 6820–35–M

7

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. No. 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 10:00 a.m., November 8–9, 1985.

STATUS: Open and Closed.

ADDRESS: Education Building, San Antonio Zoological Gardens and Aquarium, 3090 North Saint Mary's Street, San Antonio, Texas 78212.

FOR FURTHER INFORMATION CONTACT: Mr. Robin N. Rapp, Executive Assistant to the National Museum Services Board Room 510, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506, (202) 786–0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of November 8–9, 1985 will be open to the public from 10:00 a.m. through discussion of agenda item number VI. The meeting will be closed to the public for a review of agenda item number VII pursuant to paragraphs 6, 9(B), and other relevant provisions of subsection (c) of Section 552 of Title 5, United States Code because the Board will consider information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

National Museum Services Board

November 8, 1985 Meeting Agenda

I. Approval of Minutes of August 23, 1985 NMSB Meeting
II. Director's Report
III. Legislative Update
IV. Program Report
V. IMS Staff Activities
VI. Other Business
VII. Closed Session.

Dated: October 4, 1985.

Monika Edwards Harrison,

Acting Director.

[FR Doc. 85–24863 Filed 10–15–85; 12:53 pm]

BILLING CODE 7036–01–M

8

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 14, 21, 28, and November 4, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 14

No Commission meetings

Week of October 21—Tentative

Monday, October 21

10:00 a.m.
Status of Pending Investigations (Closed—Ex. 5 & 7)
1:30 p.m.
Discussion with Staff on EPA Standards for HLW (Public Meeting)
Status of Pending Investigations (Closed—Ex. 5 & 7)

Tuesday, October 22

10:00 a.m.
Discussion of Fitness for Duty (Public Meeting)
2:00 p.m.
Briefing on Status of Safety Goal Evaluation (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Wednesday, October 23

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for River Bend (Public Meeting)

Thursday, October 24

10:00 a.m.
Meeting with Nuclear Utility Fire Protection Group (Public Meeting)
2:00 p.m.
Discussion of Exemption Requests—Environmental Qualification (Public Meeting)

Friday, October 25

10:00 a.m.
Year End Program Review (Public Meeting)

Week of October 28—Tentative

Thursday, October 31

10:00 a.m.
Discussion of Exemption Requests—Environmental Qualification (Public Meeting)
11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of November 4—Tentative

Monday, November 4

2:00 p.m.
Continuation of 9/4 Discussion of Threat Level and Physical Security (Closed—Ex. 1)

Tuesday, November 5

10:00 a.m.
Executive Branch Briefing (Closed—Ex. 1)
2:00 p.m.
Quarterly Source Term Briefing (Public Meeting)

Wednesday, November 6

9:30 a.m.
Briefing on NUMARC Initiatives (Public Meeting)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION:

Affirmation of "Hearing Request on Denial of Senior Operator's License" (Public Meeting) was held on October 10.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) was held on October 10.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Dated: October 10, 1985.

Julia Corrado,

Office of the Secretary.

[FR Doc. 85-24818 Filed 10-11-85; 4:41 pm]

BILLING CODE 7590-01-M

9

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1357]

TIME AND DATE: 10:15 a.m. (EDT), Friday, October 18, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Action Items

B—Purchase Awards

B1. Requisition 11—Term coal for Cumberland Steam Plant.

D—Personnel Items

D1. Consideration of a plan to appoint an inspector general for TVA and establish a nuclear consultant to the Board.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: October 11, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85-24829 Filed 10-15-85; 9:32 am]

BILLING CODE 8120-01-M

10

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8:00 a.m., October 21, 1985.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" [5 U.S.C. 552b(e)(3)].

MATTERS TO BE CONSIDERED:

8:00: Meeting—Board of Regents

(1) Approval of Minutes—July 15, 1985; (2) Faculty Appointments; (3) Report—Admissions: Deferred Matriculation; (4) Report—Associate Dean for Operations: (a) Budget, (b) Construction; (5) Report—President, USUHS: (a) University Awards, (b) Faculty Compensation, (c) F. Edward Hebert School of Medicine—(1) National Board of Medical Examiners Examination, (2) Liaison Committee for Medical Education Accreditation, (3) Faculty Development, (4) Coordinating Committee on Graduate Medical Education, (d) Graduate Education—(1) Certification of Graduate Students, (2) Allied Health Sciences, (e) Informational Items, (6) Comments: Members, Board of Regents—Military Medicine; (7) Comments: Chairman, Board of Regents—Authority of Executive Secretary

New Business

Scheduled Meetings: January 13, 1986.

CONTACT PERSON FOR MORE INFORMATION: Donald L. Hagengruber, Executive Secretary of the Board of Regents, 202/295-3049.

Dated: October 11, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-24809 Filed 10-11-85; 4:15 pm]

BILLING CODE 3810-01-M

11

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Closed Meeting

The purpose of this document is to give notice that the Executive Committee of the Board of Regents of the Uniformed Services University of the Health Sciences has decided to close an Executive Committee meeting. This notice is given pursuant to 32 CFR 242a.4 and 242a.6 of the Board of Regents' Public Meeting Procedures.

TIME AND DATE: 5:00 p.m., October 20, 1985.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

SUBJECT TO THE CLOSED MEETING: Personnel matters involving individual USUHS employees.

SPECIFIC EXEMPTION CITED: 5 U.S.C. 552b(c)(6) and 32 CFR 242a.4(f).

CONTACT PERSON FOR MORE INFORMATION: Donald L. Hagengruber, Executive Secretary of the Board of Regents, 202/295–3028.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
October 11, 1985.
[FR Doc. 85–24817 Filed 10–11–85; 4:20 pm]
BILLING CODE 3810-01-M

Federal Register

Thursday
October 17 1985

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 8200

Fossil Forest Research Natural Area; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8200

[Circular No. 2569]

Fossil Forest Research Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes regulations relating to the management of the area in New Mexico known as the "Fossil Forest" in accordance with the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98-603, 98 Stat. 3155). These regulations are designed to protect the natural, educational and scientific research values of the area, including paleontological study, excavation, and interpretation. They are also designed to permit the exercise of valid existing rights consistent with protection of the land surface and the special values of the area.

EFFECTIVE DATE: November 18, 1985.

ADDRESS: Inquiries or suggestions should be sent to: State Director, New Mexico (921), Bureau of Land Management, Joseph M. Montoya Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87504-1449.

FOR FURTHER INFORMATION CONTACT: Ed Heffern (505) 988-6109 or Carl Barna (202) 343-9353.

SUPPLEMENTARY INFORMATION: The San Juan Basin Wilderness Protection Act of 1984 (the Act) was enacted on October 30, 1984. Section 103 thereof withdraws an area of approximately 2,720 acres in T. 23 N., R. 12 W., New Mexico Principal Meridian, San Juan County, New Mexico, known as the "Fossil Forest," from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing, subject to valid existing rights. That section further directs the Secretary of the Interior to administer the area in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and to ensure that no activities are permitted that would significantly disturb the land surface of the area or impair its existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation. The Act also requires the Secretary to promulgate regulations for the administration of the area within one year of its enactment, and to file them with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Act further directs the Bureau of Land Management (the Bureau) to conduct a long range study to determine the best management of the area, and to submit the results of the study to Congress within 8 years.

The proposed rulemaking establishing procedures for the management of the Fossil Forest area was published in the **Federal Register** on May 30, 1985 (50 FR 23034). Comments were invited for a period of 60 days ending July 29, 1985, during which period a total of 4 comments were received: 1 from a business entity, 2 from State government agencies, including an educational institution, and 1 from an individual. All of the comments have been given careful consideration during the decisionmaking process on this final rulemaking.

One comment expressed support for protection of the Fossil Forest, urging that it be designated a national monument or wilderness. The final designation of, and the degree of protection required for, the lands in the Fossil Forest are to be determined by the Congress, and are beyond the scope of this final rulemaking. Another comment raised questions about the amount and quality of paleontological resources and the amount and value of coal in the Fossil Forest. A third comment stated that the area withdrawn is too large, that only about 1,000 acres are paleontologically significant. The need for protecting the paleontological resources, the value of resources foregone, and the size of the area protected, will be among the issues focused on in the long-range study of the area required by the Act. These comments did not recommend any change in the rulemaking.

One comment stated that the Fossil Forest has been and continues to be actively studied by the New Mexico Bureau of Mines & Mineral Resources of the New Mexico Institute of Mining & Technology, and that section 8224.1(a) of the proposed rulemaking should be amended to honor the norms of scientific ethics and preclude the usurpation of active study areas by other researchers. Section 8224.1(a) is designed to allow the use of the best qualified scientist(s) over the long term, but does not contemplate the termination of ongoing research. The provision is broad enough to allow research in different disciplines, if necessary, and to allow other researchers or institutions to become involved if for some reason the present researchers are unable to continue. There is no expectation that a large number of permits will be issued under § 8224.1(a), and no change is necessary in this provision in the final rulemaking.

One comment suggested that the penalty provisions in § 8224.2 should be expanded to apply to violations of all the use provisions listed in § 8224.1 of the rulemaking instead of the 4 specifically listed in § 8224.2. This is not necessary because the uses provided for in paragraphs of § 8224.1 that are not listed in § 8224.2 are governed by other parts of Title 43 of the Code of Federal Regulations, which provide for penalties in appropriate circumstances. The rulemaking refers to these other provisions: the grazing regulations at 43 CFR Part 4100, the oil and gas leasing regulations in 43 CFR Group 3100, the recreation regulations at 43 CFR Part 8360, and, for protection of archaeological resources, the regulations in 43 CFR Part 7. Miners who operate without proper authorization are subject to criminal citation under 43 CFR Part 8340 or 8360. Therefore, because the matter of penalties is adequately addressed in other regulations, no change is made in this regulation in the final rulemaking.

The Bureau of Land Management will prepare an Interim Management Plan for Fossil Forest that will remain in effect during the study period and until Congress determines otherwise. The Interim Management Plan will prescribe protective measures to be taken by the Bureau which may include systematic surveillance and patrol, appropriate physical barriers and controls, and the posting of signs. The Bureau will also provide visitor information and assistance for educational purposes.

Editorial changes have been made in the final rulemaking as required.

The principal author of this final rulemaking is Ed Heffern, Division of Mineral Resources, New Mexico State Office, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*) because no small entity has an economic interest in the Fossil Forest.

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* It is anticipated that there will be fewer than 10 applicants annually for permits to collect, excavate, or remove fossils from the Fossil Forest.

List of Subjects in 43 CFR Part 8200

Environmental protection, Natural resources, Public lands, Research.

Under the provisions of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98–603, 98 Stat. 3155), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), and 18 U.S.C. 641, Part 8200, Subchapter H, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

October 1, 1985.

1. Group 8200 is amended by adding a new Subpart 8224 as follows:

Group 8200—Natural History Resource Management

PART 8200—PROCEDURES

* * * * *

Subpart 8224—Fossil Forest Research Natural Area

Sec.

Authority: Sec. 103 of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98–603, 98 Stat. 3155), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), and 18 U.S.C. 641.

* * * * *

Subpart 8224—Fossil Forest Research Natural Area

§ 8224.0–1 Purpose.

The purpose of this subpart is to provide procedures for the management and use of the public lands in the Fossil Forest of New Mexico.

§ 8224.0–2 Objectives.

The objectives are management in accordance with the Federal Land Policy and Management Act of 1976 and for protection of the aesthetic, natural, educational, and scientific research values of the Fossil Forest, including paleontological study, excavation and interpretation projects within the Fossil Forest, until Congress determines otherwise.

§ 8223.0–3 Authority.

This subpart is issued under the authority of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98–603, 98 Stat. 3155), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and 18 U.S.C. 641.

§ 8224.0–5 Definitions.

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management designated to perform the duties described in this subpart:

(b) "Fossil" means the remains or trace(s) of an organism or assemblage of organisms which have been preserved by natural processes in the earth's crust. The term does not mean energy minerals, such as coal, oil and gas, oil shale, bitumen, lignite, asphaltum and tar sands, even though they are of biologic origin:

(c) "Fossil Forest" or "Fossil Forest Research Natural Area" means those public lands as described in section 103(a) of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98–603, 98 Stat. 3155).

§ 8224.0–6 Policy.

No activities will be permitted within the Fossil Forest that would significantly disturb the land surface or impair the existing natural, educational, and scientific research values of the area.

§ 8224.1 Use of the Fossil Forest Research Natural Area.

(a) Fossils may be collected, excavated, or removed only under a permit issued under § 2920.2–2 of this title by the Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87504–1419. Permits shall be issued only to institutions and individuals engaged in research, museum, or educational projects that are approved by the authorized officer and that provide for detailed recordation, reporting, care of specimens, and availability of specimens to other scientists and museums.

(b) Petrified wood shall not be collected and removed from the Fossil Forest either for free use as permitted under § 3622.3 of this title or for commercial sale as permitted under § 3610.1.

(c) The Fossil Forest is closed to motorized use, except as permitted by the authorized officer.

(d) Except as otherwise provided in paragraphs (a), (b), and (c) of this section, the provisions of Part 8360 of this title apply to recreational use in the Fossil Forest.

(e) Rights-of-way may be approved only for temporary projects which do not significantly disturb the surface of the land or impair the existing values of the area.

(f) The grazing of livestock where such use was established before October 30, 1984, shall be allowed to continue under the regulations on the grazing of livestock on public lands in Part 4100 of this title, so long as it does not disturb the natural, educational, and scientific research values of the Fossil Forest. Grazing permits or leases may be modified under § 4130.6–3 of this title, if necessary to protect these resources.

(g) The lands in Fossil Forest shall not be sold or exchanged except as authorized by section 105(b) of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98–603, 98 Stat. 3157).

(h) The Fossil Forest is closed to the operation of the mining laws and to disposition under the mineral leasing laws and geothermal leasing laws, as of October 30, 1984, subject to valid existing rights.

(i) Operations on oil and gas leases issued before October 30, 1984, are subject to the applicable provisions of Group 3100 of this title, including those set forth in § 3162.5–1, and such other terms, stipulations, and conditions as the authorized officer deems necessary to avoid significant disturbance of the land surface or impairment of the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

(j) The regulations in 43 CFR Part 7 apply to the management and protection of archaeological resources in Fossil Forest.

(k) The paleontological resources of the Fossil Forest shall not be willfully destroyed, defaced, damaged, vandalized, or otherwise altered.

§ 8224.2 Penalties.

(a) Any person who willfully violates any prohibition under either § 8224.1(b), (c) or (k) of this title shall be subject to a fine not to exceed $1,000 or imprisonment of not to exceed 12 months, or both.

(b) Any person who willfully and without authorization collects or removes palentological resources whose value is greater than $100, for which a permit is required under § 8224.1(a) or (b) of this title, shall be subject to a fine not to exceed $10,000, or imprisonment not to exceed 10 years, or both (18 U.S.C. 641).

[FR Doc. 85–24705 Filed 10–16–85; 8:45 am]
BILLING CODE 4310–84–M

federal register

Thursday
October 17, 1985

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 29

Transport Category Rotorcraft Performance; Advance Notice of Proposed Rulemaking; Invitation for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 24802; Notice No. 85-19]

Transport Category Rotorcraft Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM), invitation for interested persons to submit comments.

SUMMARY: This advance notice proposes to revise the performance requirements for transport category rotorcraft. The proposal results from adoption of Rotorcraft Regulatory Review Program Amendment No. 1, which revised the applicability of Part 29, Airworthiness Standards: Transport Category Rotorcraft, and emphasized the need to define more clearly the determination of takeoff performance. The present Part 29 does not sufficiently define factors for determining Category A takeoff distance nor minimum climb gradients necessary for the design of heliports.

DATES: Comments must be received on or before April 15, 1986.

ADDRESSES: Comments on this advance notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24802, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: FAA Rules Docket, Room 915-G, 800 Independence Ave., SW., Washington, D.C. 20591. All comments must be marked Docket No. 24802. Comments may be inspected in Room 915-G, between 8:30 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. J.S. Honaker, Regulations Program Management (ASW-111), Rotorcraft Standards Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, commercial telephone (817) 877-2552 or FTS 734-2552.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Comments should be accompanied by cost estimates. Commenters should identify the regulatory docket number and submit comments in duplicate to the Rules Docket address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in the light of comments received, and a subsequent notice will be issued if the FAA decides to proceed further. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24802." The postcard will be date/time stamped and returned to the commenter.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

The Rotorcraft Regulatory Review Program (RRRP) Amendment No. 1 (Amendment 29-21, effective March 2, 1983, 48 FR 4374) revised the applicability of Part 29 to require that transport category rotorcraft certified to carrier 10 or more passengers meet an increased level of safety. This amendment also emphasized the need to define more clearly the determination of takeoff and other performance characteristics. Further, the FAA program to publish Advisory Circular 29-2, Certification of Transport Category Rotorcraft, uncovered significant omissions in Part 29 performance requirements. As an example, before RRRP Amendment No. 2 (Amendment 29-24, 49 FR 44422; November 6, 1984), there was no mention of a height above the takeoff surface as a factor in determining Category A takeoff distance. Amendment 29-24 added a height of 35 feet at one point, but several necessary factors were still not included. There have also been questions as to why the height associated with takeoff is 35 feet for Category A rotorcraft but is 50 feet for Category B rotorcraft.

Category A pinnacle (rooftop) takeoff and landing requirements were first established in a policy letter by the FAA in 1961. Due to the infrequent use and therefore slow refinements of pinnacle operations, the requirements have not been included in the Federal Aviation Regulations (FAR). Improved rotorcraft performance and increased recent activity related to pinnacle operations require that appropriate certification standards be adopted.

The present landing requirements are in need of clarification and review. Category A rotorcraft normal landing distances are determined using a 50-foot height, but pinnacle operations use a 25-foot height. Category B rotorcraft landing distances are determined power off (in autorotation) or with one engine inoperative (OEI) for multiengine Category B rotorcraft. Airspeeds used with autorotative or OEI landings are higher than those which can safely be used power on, resulting in longer landing distances. If these autorotative or OEI landing distances are the only information provided, shorter areas suitable for power-on operations may be precluded from use.

The present Part 29, through Amendment 29-24, establishes a minimum rate of climb for Category A rotorcraft at the takeoff altitude and 1,000 feet above the takeoff surface but does not specify a minimum gradient of climb at any point. For a specific rate of climb, the gradient of climb decreases as airspeed increases. Therefore, two rotorcraft with the same rate of climb but different airspeeds must have different considerations for obstacle clearance or noise abatement after takeoff. This presents significant problems in selecting adequately clear areas for heliports, in designing the heliports, and in determining which rotorcraft may use a special heliport.

The height-velocity (HV) envelope is a combination of forward airspeed (normally zero to about 35 knots) and heights above the ground (normally 15 to about 400 feet) within which a safe landing may not be assured in the event of an engine failure and where there is insufficient performance capability to remain airborne. The early Civil Aviation Regulations (CAR) referred to limiting height for autorotative landings

and forward speeds. The "limiting" and "speed" have been retained in the FAR but the RRRP Amendments 1 and 2 assured that it was limiting only for Category A rotorcraft and not limiting for Category B or normal category rotorcraft. Although the FAR section title uses height-speed, all common usage refers to height-velocity. Because a "forward" component is included with the airspeed, the term "velocity" is correct when defining speed and direction. This ANPRM proposes this nomenclature.

A multiengine rotorcraft at light weight and at low airspeeds and heights above the ground may have sufficient one-engine-inoperative performance capability to safely land or fly away after an engine failure, but at maximum gross weight, that same rotorcraft may have a significant HV envelope. Determining the HV envelope is one of the most demanding and time-consuming tasks of certification. The present rule (through Amendment 29–24) requires that the HV envelope be determined for all rotorcraft and established as a limitation for Category A rotorcraft. It also requires that the profile used to establish takeoff performance must avoid the HV envelope even during abused (slow airspeed) takeoffs. Although the present Part 29 requires establishing the HV envelope for Category A rotorcraft, a demonstration of the abused takeoff profile has generally been sufficient for certification without actually determining the Category A HV envelope, particularly where a Category B envelope has previously been established. Eliminating the requirement to determine a separate Category A HV envelope is necessary to reflect current practice which has resulted in a very significant reduction in the flight hours and risk required for certification flight testing.

The reasons for changes proposed in this notice are included in the explanation which follows each proposal. Editorial and administrative changes necessitated by these proposals are also identified. Each section of this proposed revision is identified as a separate proposal.

Discussion

The FAA is considering an amendment to Part 29 of the FAR to clarify performance requirements and establish minimum takeoff climb gradients for transport category rotorcraft.

The FAA wishes to obtain the participation of all interested persons in resolving the regulatory issues that are involved in revising the performance requirements for transport category rotorcraft certification.

The most effective procedure to gain the maximum participation of interested persons is issuance of this ANPRM which requests written comments and data. The comments from the ANPRM will be used in finalizing revisions to the performance portion of Part 29 to be published in a notice of proposed rulemaking (NPRM) should the FAA decide to proceed further.

Accordingly, interested persons are invited to review this advance notice and to submit any proposed change or comment.

Scope of The Advance Notice

The scope of the ANPRM is limited to the transport category rotorcraft airworthiness requirements of Part 29 of the FAR.

Economic Impact And Benefits

Public comments concerning the economic impacts and benefits of this proposal rulemaking action are sought in addition to comments on technical aspects of the proposed changes. Therefore, the FAA solicits information, data, views, etc., regarding the following:

1. Cost impacts of requiring minimum gradients of climb.

2. Cost, benefits, or other factors that would be involved if the height used in determining Category A takeoff performance is changed from 35 feet to 50 feet.

3. Suggestions for alternative methods of accomplishing the objectives of these proposals and their associated cost comparison.

The FAA invites comments on any economic factors contained in the above request and the overall proposal. All information will be used in the final evaluation of benefits and costs. If it is determined that further rulemaking is appropriate, a NPRM and a full regulatory evaluation will be issued containing an economic evaluation of related costs and benefits.

The FAA also invites comments regarding environmental or energy impacts that might result from this proposal.

This advance notice proposes new regulations and changes which will clarify existing regulations, incorporate procedures that have been established by use and policy, and improve the safety and definition of rotorcraft takeoff performance. Preliminary evaluation indicates that this ANPRM is not sufficient under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation will be prepared with the assistance of comments received as a result of this advance notice.

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 29 of the FAR [14 CFR Part 29) as follows:

PART 29—[AMENDED]

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

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. By amending § 29.1 by revising paragraph (e) to read as follows:

§ 29.1 Applicability.

* * * * *

(e) Rotorcraft with a maximum weight of 20,000 pounds or less but with 10 or more passenger seats may be type certificated as Category B rotorcraft provided the Category A requirements of §§ 29.67(a)(2), 29.87, 29.1517, and Subparts C, D, E, and F of this Part are met.

* * * * *

Explanation: This proposal would change the reference from § 29.79 to § 29.87 which would be the redesignated section concerning the height-velocity envelope in this proposed revision.

3. By redesignating present § 29.73 as a new § 29.49, and by revising it to read as follows:

§ 29.49 Performance at minimum operating speed.

(a) For each Category A helicopter, the hovering performance must be determined over the ranges of weight, altitude, and temperature for which takeoff data are scheduled—

(1) With not more than takeoff power;

(2) With the landing gear extended; and

(3) At a height consistent with the procedure used in establishing the takeoff, climbout, and rejected takeoff paths.

(b) For each Category B helicopter, the hovering performance must be determined over the ranges of weight, altitude, and temperature for which certification is requested, with—

(1) Takeoff power;

(2) The landing gear extended; and

(3) The helicopter in ground effect at a height consistent with normal takeoff procedures.

(c) For all rotorcraft, the minimum speed in level flight, as limited by structural loads, performance, or controllability, must be determined over the ranges of weight, altitude, and temperature for which certification is requested, with—

(1) Takeoff power; and

(2) The landing gear extended.

(d) For rotorcraft other than helicopters, the steady rate of climb at the minimum operating speed must be determined over the ranges of weight, altitude, and temperature for which certification is requested, with—

(1) Takeoff power; and

(2) The landing gear extended.

Explanation: Redesignating § 29.73 as § 29.49 in this proposal would move performance at the minimum operating speed, helicopter hover performance, to one of the first requirements. The transport category concept has been that hover performance limits all other near-the-ground operations. This is somewhat comparable to determining stall speed for an airplane, one of the first performance requirements in Part 25, since many other airplane performance characteristics are based on stall speed. For rotorcraft other than helicopters, the minimum operating speed may actually be a stall speed. By putting the requirement for hovering performance first, the other requirements can be built upon that information.

A proposed new paragraph (c) would require that the minimum speed for level flight, as limited by performance or controllability, be determined. As a decreasing V_{NE} cuts off the top-right of a flight envelope diagram of airspeed and altitude, the minimum speed for level flight would cut off the top-left of that diagram. A slow speed may be desirable during news gathering flights or survey flights, as examples. To avoid slowing to the point that a high rate of descent develops due to performance limitations, the minimum speed for level flight should be defined.

The minimum speed for level flight would also define the out-of-ground effect (OGE) hover ceiling. At the RRRP meeting in 1979 there was discussion of whether the OGE hover ceiling information should be required. At that meeting it was decided that a requirement for the OGE hover information would not be required. However, there seems to be a continuing group within the rotorcraft industry that believes OGE hover information should be required. This notice should determine whether rotorcraft operations have changed sufficiently since 1979 so as to require determination of OGE hover data.

The proposal to define the minimum level flight speed with controllability as a consideration is not intended to generate a large flight test program. It is anticipated that performance, rather than controllability, will be limiting in most cases, and only spot checks of controllability will be necessary. A rotorcraft with significantly derated engines (full power, as limited by the drive system, attainable to high altitude) and a tail rotor that has poor efficiency characteristics with increasing altitude could reach a point of weight, altitude, and temperature where, even at zero airspeed and wind speed, there would be insufficient tail rotor control to prevent the rotorcraft from turning. This is addressed for the in-ground-effect (IGE) case in § 29.143(c) by the controllability requirement in a wind of at least 17 knots from any direction. However, at altitudes above the IGE hovering ceiling it is conceivable that controllability could limit the minimum speed.

In the proposed § 29.43 paragraphs (a)(1) and (b)(1)(i), the phrase "on each engine" would be deleted from the former takeoff power requirement because some rotorcraft have takeoff power limited by parts of the drive system other than the engine.

Paragraph (b)(2) of the present § 29.73 establishes a minimum hover performance requirement for Category B helicopters that would be eliminated by this proposal. As a worst case example, the maximum gross weight of one helicopter at sea level standard temperature would be about 2,250 pounds more than the 20,000 pounds now permitted because of the 2,500-foot standard plus 40 °F temperature hover requirement as a factor in establishing maximum gross weight. A helicopter that uses engines and drive systems where a constant power can be maintained throughout the altitude and temperature band of this section will be affected only slightly by the present requirement or the proposal. The present limitation is considered unnecessary for a transport helicopter.

4. By revising § 29.51(a) introductory text to read as follows:

§ 29.51 Takeoff data: General.

(a) The takeoff data required by §§ 29.53, 29.55, 29.59, 29.60, 29.61, 29.62, 29.63, and 29.67 must be determined—

* * * * *

Explanation: This proposal would change the referenced sections to those applicable to this proposed revision.

§ 29.53 [Amended]

5. By amending § 29.53 by removing paragraph (b); by removing the paragraph designation "(a)" from paragraph (a); and by redesignating present paragraphs (a)(1) and (a)(2) as (a) and (b), respectively.

Explanation: The present description of the critical decision point contained in § 29.53(b) would be designated as a section rather than a paragraph and more clearly defined in a proposed new § 29.55.

6. By adding a new § 29.55 to read as follows:

§ 29.55 Critical decision point: Category A.

(a) The critical decision point (CDP) is the last point in the takeoff path at which a rejected takeoff is assured within the distances determined under § 29.62 and is the first point at which a continued takeoff capability is assured under § 29.59.

(b) The CDP must be established in relation to the takeoff path using no more than two parameters, such as airspeed and altitude, to designate the CDP.

Explanation: This proposed new section would redefine CDP and place that definition in a new section of the rule. The proposed new definition more clearly describes the objectives of the flight requirements. It would further remove the requirement to use both height and airspeed to define the CDP, as height alone may be sufficient. The proposal would also permit parameters other than height and airspeed to be used to designate the CDP and is intended to establish more clearly the CDP requirements.

7. By revising § 29.59 to read as follows:

§ 29.59 Takeoff path: Category A.

(a) The takeoff path extends from the point of the commencement of the takeoff procedure to a point at which the rotorcraft is 1,000 feet above the takeoff surface or transition from the takeoff to the en route configuration is completed and a speed is reached at which compliance with § 29.67(a)(2) is shown, whichever point is higher. In addition—

(1) The takeoff path must remain clear of the Category A height-velocity envelope or as established in accordance with § 29.87;

(2) The rotorcraft must be flown to the critical decision point, at which point the critical engine must be made inoperative and remain inoperative for the rest of the takeoff;

(3) After the critical engine is made inoperative, the rotorcraft must attain V_{TOSS};

(4) Only primary controls may be used while attaining V_{TOSS} and while establishing a positive rate of climb. Secondary controls which are located

on the primary controls only may be used after a positive rate of climb and V_{TOSS} are established but in no case less than 3 seconds after the critical engine is made inoperative; and

(5) After attaining V_{TOSS} and a positive rate of climb, the landing gear may be retracted.

(b) During the takeoff path determination in accordance with paragraph (a) of this section—

(1) The rotorcraft may not descend more than the higher of one-half of the height of the CDP or to a height less than that required to initiate action, such as rotation or flare, for a rejected takeoff after the critical engine is made inoperative.

(2) After attaining V_{TOSS} and a positive rate of climb, the climb must be continued at a speed as close as practical to, but not less than, V_{TOSS} until the rotorcraft is 100 feet above the takeoff surface with not less than the climb performance required by § 29.67(a)(1).

(c) Between the point at the end of the takeoff distance established under § 29.61 and the point that the rotorcraft is 100 feet above the takeoff surface, the steady gradient of climb must not be less than 3.0 percent.

(d) From 100 feet above the takeoff surface, the rotorcraft takeoff path must be level or positive until a height 1,000 feet above the takeoff surface is attained with not less than the rate of climb required by § 29.67(a)(2). Any secondary or auxiliary control may be used after attaining 100 feet above the takeoff surface.

(e) From the point along the takeoff path at which the rotorcraft is 100 feet above the takeoff surface until it is 1,000 feet above the takeoff surface, the steady gradient of climb may not be less than 2.0 percent.

Explanation: This proposed revision would more clearly define the takeoff path from the start of the takeoff to completion at 1,000 feet above the takeoff surface. It would also describe the actions permitted and flight path for certification in accordace with the procedures and limits that have been established during previous certifications. In this respect, the proposal would not change present policies. The most significant proposed change would be to establish minimum climb gradients during the takeoff path. Present requirements specify only a rate of climb. For a given rate of climb, as airspeed increases, the gradient of climb decreases. This makes it extremely difficult to analyze possible heliport sites for satisfactory obstacle clearance planes during departure. Additionally, if minimum gradients are adopted there is more assurance that deviations from optimum flight path control do not result in a descent below a safe altitude during the continued takeoff. Consideration has previously been given to establishing gross gradients and reducing them by some increment to a minimum net gradient to provide for turbulence and nonoptimum path control, but sufficient data could not be found to justify a specific increment. Therefore, the gradients are related to the present climb requirements but in some circumstances may require more performance.

With regard to proposed paragraphs (d) and (e), requirements in other parts of the FAR define the second segment of the takeoff path for airplanes as being from the end of the takeoff distances (35 or 50 feet above the takeoff surface) to 400 or 500 feet above the takeoff surface. Convenience, custom, and policy apparently have "established" the end of the helicopter takeoff second segment as 100 feet above the takeoff surface. There has been considerable discussion within the FAA on using 100 feet for acceleration from V_{TOSS} to V_Y, especially at night in instrument meteorological conditions. The 100 feet has no basis in past or present rules and the one-engine-inoperative climb requirements are at takeoff altitude and 1,000 feet above the takeoff altitude. It appears that a major factor in determining this second segment is the OEI engine ratings. The present 2½-minute one-engine-inoperative engine limits and the 100-foot takeoff point are presently compatible, and any higher height would probably require some sort of engine recertification. The economic impact of using a height greater than 100 feet as the end of the takeoff second segment may be great, but the safety implications of having the 100-foot takeoff point are also great. The FAA requests comments and especially economic information that could be used in evaluating a higher altitude.

8. By adding a new § 29.60 to read as follows:

§ 29.60 Pinnacle takeoff; Category A.

(a) The pinnacle takeoff path extends from the point of the commencement of the takeoff procedure to a point in the takeoff path at which the rotorcraft is 1,000 feet above the takeoff surface and the climb requirements of § 29.67(a)(2) are met. In addition—

(1) The requirements of § 29.59(a) must be met;

(2) While attaining V_{TOSS} and a positive rate of climb, the rotorcraft may descend below the level of the takeoff surface if, in so doing and when clearing the pinnacle edge, every part of the rotorcraft clears all obstacles by at least 15 feet vertically and 35 feet horizontally;

(3) Except as noted in paragraph (a)(2) of this section, the rotorcraft may not descend closer to the takeoff surface than the greater of a height equal to one-half of the CDP height or to the height required to initiate action, such as rotation or flare, for a rejected takeoff; and

(4) The vertical magnitude of any descent below the takeoff surface will be determined.

(b) After attaining V_{TOSS} and a positive rate of climb, the landing gear may be retracted and the climb must be continued at a speed as close as practical to, but not less than, V_{TOSS} until the rotorcraft is 100 feet above the takeoff surface with at least the climb performance required by § 29.67(a)(1).

(c) Between the point at the end of the takeoff distance established under § 29.61 and the point that the rotorcraft is 100 feet above the takeoff surface, the steady gradient of climb must not be less than 3.0 percent.

(d) From 100 feet above the takeoff surface, the rotorcraft takeoff path must be level or positive until attaining 1,000 feet above the takeoff surface. Any secondary or auxiliary control may be used after attaining 100 feet above the takeoff surface.

(e) From the point along the takeoff path at which the rotorcraft is 100 feet above the takeoff surface until it is 1,000 feet above the takeoff surface, the steady gradient of climb may not be less than 2.0 percent.

(f) Takeoff distance will be determined in accordance with § 29.61.

Explanation: The requirements for a pinnacle (rooftop, for example) takeoff were first used in 1961. Infrequent use of these requirements has resulted in few refinements. The infinite possibilities for different physical characteristics of pinnacle heliports have further complicated defining the requirements for general application versus application for a specific heliport. Where the authorized takeoff and landing area encompasses the entire pinnacle top, with no fences or horizontal nets, the pinnacle concept is relatively straightforward. Fences or horizontal obstacles at the edge immediately complicate certification. The proportions of an approved takeoff and landing area in a small area in the middle of a large rooftop, for example, are such that it could no longer be considered a pinnacle. The proposed requirements are intended to provide a generalized pinnacle concept while

recognizing that there would have to be an operational evaluation of specific heliports.

9. By adding a new § 29.61 to read as follows:

§ 29.61 Takeoff distance; Category A.

The takeoff distance is the greater of:

(a) The horizontal distance along the takeoff path required to attain and remain at least 50 feet above the takeoff surface, a speed of at least V_{TOSS}, and a positive rate of climb, assuming the critical engine failure occurs at the CDP.

(b) 1.15 times the horizontal distance along the takeoff path, with all engines operating, from the starting point of the takeoff to the point at which the rotorcraft attains and remains at least 50 feet above the takeoff surface, as determined by a procedure consistent with § 29.59.

Explanation: This proposal would define the parameters to be used in determining takeoff distance. These parameters are not defined in the present rule. The most significant change would be establishing a height parameter of 50 feet above the takeoff surface when past policy has been to use 35 feet. The specific height is somewhat arbitrary and it appears that 35 feet was used to be in agreement with transport airplane requirements. The Category B height parameter is 50 feet. Part 27 does not require determination of takeoff distance so there is no height parameter. Part 23 also uses a height parameter of 50 feet. The operational environment for rotorcraft is considerably different from transport airplanes, and there seems to be little justification for using airplane-related standards in this case. However, a height of 50 feet is representative of a realistic operational environment and of the needs of the user. Landing distances (except vertical and pinnacle) are also based on a height of 50 feet.

The various takeoff paths possible with rotorcraft (i.e., a CDP above or below 50 or 35 feet, and descent below CDP during acceleration to V_{TOSS}) dictate requirements of more than just achieving a specified height to determine takeoff distance. The requirement to establish a positive rate of climb has been used on some previous certifications. Attainment of V_{TOSS} is not sufficient to define the end of the initial takeoff because the rotorcraft may still descend while changing the attitude from accelerating to climbing. Therefore, the initial takeoff is complete only if these three parameters are achieved: (1) attaining or remaining above a specified altitude above the takeoff surface, (2) speed at least V_{TOSS}, and (3) the rotorcraft is climbing.

Paragraph (b) of the proposal would consider the case where the takeoff path is the same with or without an engine failure and accounts for a takeoff with small deviations from the designated profile.

10. By adding a new § 29.62 to read as follows:

§ 29.62 Rejected takeoff; Category A.

The rejected takeoff distance and procedures for each condition where takeoff is approved will be established with—

(a) The takeoff path of § 29.59, to the critical decision point where the critical engine is failed and the rotorcraft is brought to a stop on the takeoff surface;

(b) The remaining engines operating within approved limits;

(c) The landing gear remaining extended throughout the entire rejected takeoff; and

(d) The use of primary controls only, not including any secondary controls located on the primary controls. Means other than wheel brakes may be used to stop the rotorcraft if the means are safe and reliable and consistent results can be expected under normal operating conditions.

Explanation: This proposal would separate the rejected takeoff from the takeoff path section and restrict use of controls to primary controls, except for wheel brakes or other means to stop the rotorcraft after it is on the ground. This has been the procedure used on recent certifications, but it is not clear in the present requirements.

11. By adding a new § 29.64 to read as follows:

§ 29.64 Climb: General.

Compliance with the requirements of §§ 29.65 and 29.67 must be shown at each weight, altitude, and temperature within the operational limits established for the rotorcraft and with the most unfavorable center of gravity for each configuration. Cowl flaps, or other means of controlling the engine-cooling air supply, will be in the position that provides adequate cooling at the temperatures and altitudes for which certification is requested.

Explanation: This proposed new section would remove the general conditions from each climb requirement and establish the general climb conditions. It would also add the requirement for the all engine climb to be evaluated at the most unfavorable center of gravity. This has been past and present policy but not specifically noted in the requirement.

12. By revising § 29.65 to read as follows:

§ 29.65 Climb: All engines operating.

(a) The steady rate of climb must be determined—

(1) With maximum continuous power;

(2) With the landing gear retracted; and

(3) At V_Y for standard sea level conditions and at speeds at or below V_{NE} selected by the applicant for other conditions.

(b) For each Category B rotorcraft except helicopters, the rate of climb determined under paragraph (a) of this section must provide a steady climb gradient of at least 1:6 under standard sea level conditions.

Explanation: This proposal would remove the general conditions from § 29.65 that are now in proposed § 29.64. The proposal would clarify that climb performance must be determined for all rotorcraft throughout the allowable flight envelope. Previous policy has required all-engine-operating climb performance although these data were not required for Category A rotorcraft. Additionally, this proposal would delete the requirement to determine Category A helicopter climb performance only when V_{NE} is less than V_Y at sea level standard conditions with maximum weight and maximum continuous power. The "when V_{NE} is less than V_Y, etc.," requirement is confusing and, as noted, has not been a certification factor since climb performance has been obtained at all weights, altitudes, and temperatures.

13. By revising § 29.67 to read as follows:

§ 29.67 Climb: One engine inoperative.

(a) For Category A rotorcraft, the following apply:

(1) The steady climb gradient without ground effect, 100 feet above the takeoff surface, must be not less than 3.0 percent or 100 feet per minute, whichever is greater, for each weight, altitude, and temperature for which takeoff data are to be scheduled, with—

(i) The critical engine inoperative and the remaining engines within approved operating limitations;

(ii) The landing gear extended; and

(iii) The takeoff safety speed selected by the applicant.

(2) The steady climb gradient without ground effect must be not less than 2.0 percent or 150 feet per minute, whichever is greater, 1,000 feet above the takeoff surface for each weight, altitude, and temperature for which takeoff data are to be scheduled, with—

(i) The critical engine inoperative and the remaining engines at maximum continuous power;

(ii) The most unfavorable center of gravity for takeoff;

(iii) The landing gear retracted; and

(iv) The speed selected by the applicant.

(3) The steady rate of climb (or descent), in feet per minute, at any altitude at which the rotorcraft is expected to operate and at any weight within the range of weights for which certification is requested, must be determined with—

(i) The critical engine inoperative and the remaining engines at maximum continuous power;

(ii) The landing gear retracted; and

(iii) The speed selected by the applicant.

(b) For multiengine Category B helicopters meeting the requirements of § 29.1(d), the steady rate of climb (or descent) must be determined at the speed for best rate of climb (or minimum rate of descent) with the criteria engine inoperative and the remaining engines at maximum continuous power.

Explanation: This proposal would remove the general requirements now contained in § 29.64. Most significantly, the proposal would establish minimum steady gradients of climb to agree with the takeoff requirements. The proposal would also specify that the rate of climb without ground effect, at essentially takeoff conditions, is to be determined 100 feet above the takeoff surface. Paragraph (a)(2) also proposes limiting power to maximum continuous instead of allowing use of any greater but time-limited power. Permitting use of a time-limited power to meet an "up and away" condition presents an over-optimistic capability. This would not preclude the operational use of a time-limited power as an added safety margin from the minimum certification standards.

14. By adding a new § 29.73 to read as follows:

§ 29.73 En route flight paths.

For the en route configurations, the flight paths must be determined for Category A and Category B rotorcraft that meet the requirements of § 29.1 (d) and (e) at each weight, altitude, and temperature within the operating limits established for the rotorcraft. The variation of weight along the flight path, accounting for the progressive consumption of fuel and oil by the operating engines, may be included in the computations. The flight paths must be determined at any selected speed, with—

(a) The most unfavorable center of gravity;

(b) The critical engine inoperative; and

(c) The remaining engines at maximum continuous power.

Explanation: This proposal would establish the requirement to define critical engine inoperative capability en route. This is required to determine that the rotorcraft can achieve a minimum obstacle clearance during en route portions of a flight.

15. By revising § 29.75 (a) and (b) to read as below and by removing paragraph (c).

§ 29.75 Landing: General.

(a) For each rotorcraft—

(1) The corrected landing data must be determined for a smooth, dry, hard, level surface;

(2) The approach and landing may not require exceptional piloting skill or exceptionally favorable conditions; and

(3) The landing must be made without excessive vertical acceleration or tendency to bounce, nose over, ground loop, porpoise, or water loop.

(b) The landing data required by §§ 29.77, 29.79, 29.81, 29.83 and 29.85 must be determined—

(1) At each weight, altitude, and temperature for which landing data are approved;

(2) With each operating engine within approved operating limitations; and

(3) With the most unfavorable center of gravity.

Explanation: This proposal would separate the general landing requirements and establish new sections for specific landing requirements.

16. By redesignating present § 29.77 as § 29.85, and by adding a new § 29.77 to read as follows:

§ 29.77 Landing decision point; Category A.

The landing decision point (LDP) must be established at not less than the last point in the approach and landing path at which a balked landing can be accomplished under § 29.85 with the critical engine failed or failing at that point.

Explanation: Designation of a LDP has been required in all recent Category A certifications. This proposal would establish the requirement in the rule.

17. By redesignating present § 29.79 as § 29.87 and by adding a new § 29.79 to read as follows:

§ 29.79 Landing; Category A.

(a) For Category A rotorcraft—

(1) The landing performance must be determined and scheduled so that, if the critical engine fails at any point in the approach path, the rotorcraft can either land and stop safely or climb out and attain a rotorcraft configuration and speed allowing compliance with the climb requirement of § 29.67(a)(2);

(2) The approach and landing paths must be established with the critical engine inoperative so that the transition between each stage can be made smoothly and safely;

(3) The approach and landing speeds must be selected by the applicant and must be appropriate to the type of rotorcraft; and

(4) The approach and landing path must be established to avoid the critical areas of the height-velocity envelope in accordance with § 29.87(b).

(b) It must be possible to make a safe landing on a prepared landing surface after complete failure occurring during normal cruise.

Explanation: This proposal would establish the Category A landing requirements as a separate section. It would make no significant change from the present requirements.

18. By adding a new § 29.81 to read as follows:

§ 29.81 Landing distance; Category A.

The horizontal distance required to land and come to a complete stop (or to a speed of approximately 3 knots for water landings) from a point 50 feet above the landing surface (25 feet for Category A vertical and pinnacle landing operations) must be determined from the approach and landing paths established in accordance with § 29.79.

Explanation: This proposal would clearly establish the requirement to determine landing distances from specific heights. The heights have been used in all recent Category A certifications but are not stated in the present rule.

19. By adding a new § 29.83 to read as follows:

§ 29.83 Landing; Category B.

(a) For each Category B rotorcraft—

(1) The horizontal distance required to land and come to a complete stop (or to a speed of approximately 3 knots for water landings) from a point 50 feet above the landing surface must be determined with—

(i) Speeds appropriate to the type of rotorcraft and chosen by the applicant to avoid the critical areas of the height-velocity envelope established under § 29.87; and

(ii) The approach and landing made with power on and within approved limits.

(b) Each multiengine Category B rotorcraft that meets the powerplant

installation requirements for Category A must meet the requirements of—

(1) Section 29.79; or

(2) Paragraph (a) of this section.

(c) It must be possible to make a safe landing on a prepared landing surface after complete power failure occurring during normal cruise.

Explanation: This proposal would separate the Category B landing requirement as a section. It would also change the landing from power off to power on. A power-off landing is not the normal landing procedure but is an emergency procedure where the operator uses whatever landing area is available. In general, the power-off landing distance will be longer than the power-on landing. Using the longer power-off distance to determine landing capability could unnecessarily penalize the operator.

20. See item 15. By revising § 29.85 to read as follows:

§ 29.85 Balked landing: Category A.

For Category A rotorcraft, the balked landing path must be established so that—

(a) With the critical engine inoperative, the transition from each stage of the maneuver to the next stage can be made smoothly and safely;

(b) From the landing decision point in the approach path selected by the applicant, a safe climbout can be made at speeds allowing compliance with the climb requirements of § 29.67(a) (1) and (2); and

(c) The rotorcraft does not descend below 35 feet above the landing surface.

Explanation: Paragraph (b) would be changed to specify the relationship between the landing decision point and a balked landing. There is no significant change from the present requirement. The paragraph (c) requirement has been used on all recent Category A certifications and was included in Rotorcraft Regulatory Review Program Notice No. 2 (Notice 82-12, 47 FR 37806; August 26, 1982) and adopted in the resulting amendment (49 FR 44422; November 6, 1984).

21. See item 16. By revising the text and title of § 29.87 to read as follows:

§ 29.87 Height-velocity envelope.

(a) If there is any combination of height and forward velocity (including hover) under which a safe landing cannot be made after failure of the critical engine and the remaining engines (where applicable) operating within approved limits, a height-velocity envelope must be established for—

(1) All combinations of pressure altitude and ambient temperature for which takeoff and landing are approved; and

(2) Weight, from the maximum weight (at sea level) to the highest weight approved for takeoff and landing at each altitude. For helicopters, this weight need not exceed the highest weight allowing hovering out-of-ground effect at each altitude.

(b) Category A rotorcraft. If a height-velocity envelope is established for Category B and if a safe landing, continued takeoff, or missed approach is demonstrated after sudden failure of the critical engine occurs at any point along the Category A scheduled takeoff and landing path with airspeed and altitude off the nominal schedule at least 5 knots and 25 feet at the most critical point, then a Category A height-velocity envelope need not be established. The Category B height-velocity envelope will be included in the Rotorcraft Flight Manual performance information section in accordance with § 29.1587.

(c) For single-engine or multiengine rotorcraft not meeting the Category A requirements of Subparts C, D, E, and F of this Part, the height-velocity envelope for complete power failure must be established.

Explanation: The proposal would remove "power failure conditions" of the present rules as they may be confusing. Also, some recently certificated rotorcraft have limited takeoff power to less than full power to permit practical and safer takeoff profiles.

The title of the section would be changed from "Limiting height-speed envelope" to "Height-velocity envelope" to agree with the commonly used term. Limiting would be dropped from the proposed title because under the proposed concept, the envelope is seldom limiting.

Proposed paragraph (b) would adopt the past policy of permitting "abused" takeoff and landing profiles to be substituted for development of a Category A height-velocity envelope. As Category A requirements envision passenger-carrying operations, it seems reasonable that there should be no need for flight operations significantly different than the nominal certification takeoff and landing profiles. Category A operations from pinnacles (rooftops, oil rigs, etc.) present somewhat of a problem in that flight through a Category B height-velocity envelope might be required. However, it is suggested that a Category A height-velocity envelope would be sufficiently small so that no unsafe operation would be necessary. The precise safety level would be difficult to establish, however, without actually developing the Category A height-velocity envelope, thus defeating the overall goal of a reduction of test requirements. Also, the abused takeoff and landing demonstrations appear to have established adequate safety levels.

22. By amending § 29.1323 by revising paragraph (b)(2)(ii) to read as follows:

§ 29.1323 Airspeed indicating system.

* * * * *

(b) * * *

(2) * * *

(ii) Avoidance of the critical areas of the height-velocity envelope as established under § 29.87.

* * * * *

Explanation: This proposal would change the term limiting height-speed to height-velocity and the section reference from § 29.79 to § 29.87 to conform to this proposed revision.

23. By revising § 29.1517 to read as follows:

§ 29.1517 Height-velocity envelope.

For Category A rotorcraft, if a range of heights exists at any speed including zero, within which it is not possible to make a safe landing, continued takeoff, or missed approach following failure of the critical engine, the range of height and its variation with forward speed must be established, or the takeoff and landing procedures of § 29.87(b) may be demonstrated and a Category B height-velocity envelope provides as performance information in accordance with § 29.1587.

Explanation: This proposal would permit use of the Category B height-velocity envelope for information if the Category A abused takeoff and landing procedures are demonstrated under § 29.87. As noted in the proposal and the preamble to this notice, developing height-velocity envelopes is hazardous testing, and keeping this testing to an absolute minimum is highly desirable. However, the consequences of an engine failure while operating within the height-velocity envelope are so great, that some operating information must be retained. This proposed change, with the

change to § 29.87, would provide the minimum requirements and limitations.

24. By amending § 29.1587 by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 29.1587 Performance information.

(a) * * *

(4) The rejected takeoff distance determined under § 29.62 and the takeoff distance determined under § 29.61 or § 29.63; and

(5) The landing data determined under § 29.81 or §§ 29.83 and 29.85.

* * * * *

Explanation: The sections referenced would be changed to agree with this proposed revision.

Issued in Fort Worth, Texas, on October 9, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-24570 Filed 10-16-85; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
October 17, 1985

Part IV

Department of Housing and Urban Development

Office of Policy Development and Research

Announcement for International Year of Shelter for the Homeless Project Recognition Program; Invitation for Project Applications

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Policy Development and Research

[Docket No. N-85-1554; FR-2144]

Announcement for International Year of Shelter for the Homeless Project Recognition Program; Invitation for Project Applications

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement—Invitation for Project Applications.

SUMMARY: Earlier this year the Secretary of State officially requested HUD to be the coordinator for domestic activities of the United States in support of the United Nations' International Year of Shelter for the Homeless (IYSH). Secretary Pierce has designated Dr. June Koch, Assistant Secretary for Policy Development and Research, to be the official IYSH focal point. As a result, HUD is seeking to identify local activities which can be recognized as official IYSH projects. Of those identified, 15–20 projects will be documented by HUD and published monographs will be submitted to the United Nations for world-wide dissemination.

FOR FURTHER INFORMATION CONTACT: Dr. June Q. Koch, International Year of Shelter for the Homeless, Office of Policy Development and Research, Room 8136, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Telephone: (202) 755-5600. (This is not a toll-free number.)

DATE: Submissions from local projects interested in being designated as IYSH projects should be received at the above address by January 31, 1986.

SUPPLEMENTARY INFORMATION: In 1982, the United Nations General Assembly officially designated 1987 as the International Year of Shelter for the Homeless (IYSH). The impetus for dedicating a year especially to the problems of people who are homeless or live in substandard housing came from Prime Minister Premedasa of Sri Lanka who, in proposing IYSH, said, "I see the provision of adequate housing as a basic aspect in the global assault on poverty."

IYSH has as its goal securing the commitment and action of all nations to help the world's poor to build or improve their shelter and neighborhoods and, by so doing, help to integrate them into the economic mainstream. IYSH highlights the plight of the homeless and all low-income people who find affordable housing in decent neighborhoods out of reach.

The Secretary of State has asked Secretary Pierce of the U.S. Department of Housing and Urban Development (HUD) to spearhead and coordinate all domestic activities of the United States in support of IYSH. Dr. June Q. Koch, HUD Assistant Secretary for Policy Development and Research, has been designated by Secretary Pierce as IYSH National Focal Point and the primary point of contact.

As part of the U.S. participation in IYSH, HUD is seeking to identify local activities which can be officially recognized as IYSH projects. A major feature of the International Year of Shelter for the Homeless is to recognize projects that feature ways to augment or facilitate the efforts of the poor and disadvantaged in both rural and urban areas to improve their shelter and neighborhoods. Projects should target the low-income population, focus on basic problems, and draw on the support of the local community and the private sector.

Projects must relate to one or more of the following IYSH Action Areas:

- Housing—Provide or improve shelter, particularly through individual and community action, with emphasis on private sector involvement;
- Services—Provide or improve community facilities and services (sanitation, waste disposal, low-cost transportation, health and social services, security, etc.);
- Construction—Extend the use of low-cost materials and construction techniques, methods, and skills;
- Employment—Generate jobs in housing construction, maintenance, rehabilitation, and managment;
- Legislation and regulation—Institute State and local policies, legislation and regulations for encouraging affordable housing and for improving housing and community services;
- Management—Improve the management of housing;
- Finance—Increase the availability of funds to finance the construction or purchase of housing;
- Research—Identify and test techniques for construction of low-cost housing and upgrading of community services, especially those using local materials, methods, and skills;
- Education, training and information—Provide education, training and information for the improvement of local capability in the areas of housing management and maintenance, provision of neighborhood services, and community organization skills.

Projects should be currently on-going or planned and should meet the following criteria:

1. Explore, test, or demonstrate existing or new ways and means of improving the shelter and neighborhoods of low-income families through use of local initiative and with the involvement of the private sector.
2. Serve primarily low-income people, particularly those with incomes at or below the poverty level.
3. Contribute to or result in a clear and visible improvement in the shelter or neighborhoods of low-income people before 1987.
4. Contain features in support of lower income families that can be replicated in other locations within the country or in other nations.
5. Lead to affordable improvements for many rather than major improvements for a few.
6. Seek a practical balance between what is desirable, attainable, and affordable by lower income people themselves and the nation as a whole.

Local projects that fit the UN criteria will be officially recognized by HUD as IYSH Projects. They will receive an award certificate from Secretary Pierce and be included on a roster of official US IYSH projects. From this larger group of IYSH projects some 15 to 20 projects will be selected for special merit awards. These projects will be documented by HUD, and monographs will be published and submitted to the United Nations for worldwide dissemination. It is also expected that a US-sponsored conference will be held in early 1987 to exchange experience on IYSH projects and other activities in this country which help the low-income families to improve their housing and neighborhoods.

Submissions should include a narrative project description indicating specific objectives, the main beneficiaries of the project, its relation to the IYSH Action Areas, and specific information on how the project meets the six criteria listed above.

Announcement of awards will be made May 1, 1986. Special merit awards will be announced later.

Dated: October 9, 1985.

Kenneth Beirne,

Acting Assistant Secretary for Policy Development and Research.

[FR Doc. 85-24788 Filed 10-16-85; 8:45 am]

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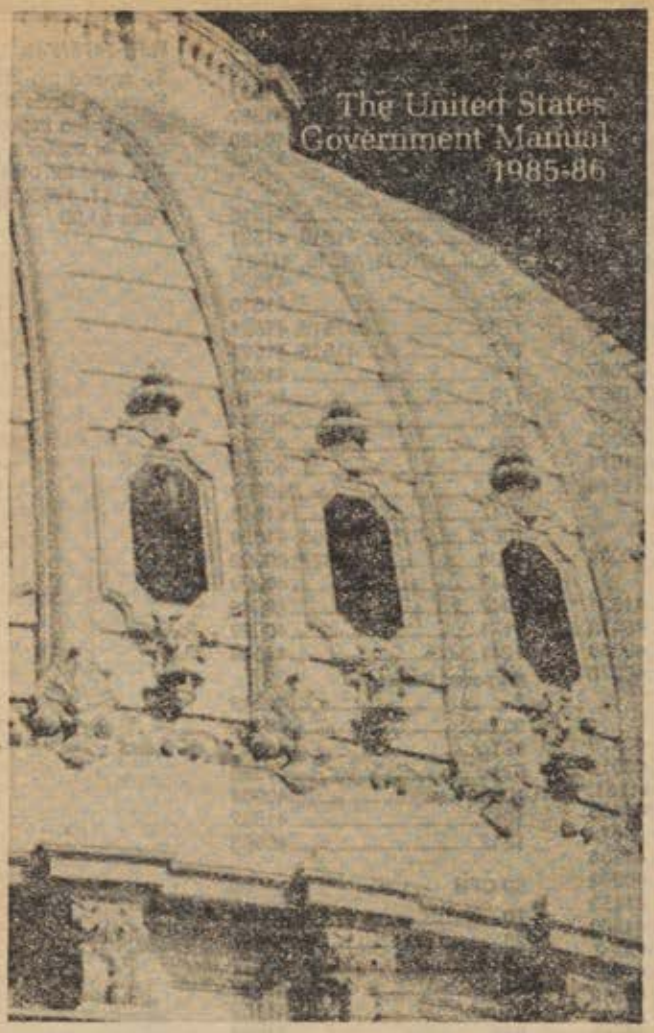
H.R. 2475/Pub. L. 99–121

To amend the Internal Revenue Code of 1954 to simplify the imputed interest rules of sections 1274 and 483, and for other purposes. (Oct. 11, 1985; 99 Stat. 505) Price $1.00



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Charge orders may be telephoned to the GPO order desk at (202)783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

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