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Tuesday
March 24, 1987

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

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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.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202–523–3517

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

Presidential Documents

Title 3—

The President

Proclamation 5621 of March 20, 1987

Afghanistan Day, 1987

By the President of the United States of America

A Proclamation

The people of Afghanistan traditionally celebrate March 21 as the start of their new year. For the friends of the Afghan people, the date has another meaning: it is an occasion to reaffirm publicly our long-standing support of the Afghan struggle for freedom. That struggle seized the attention of the world in December 1979 when a massive Soviet force invaded, murdered one Marxist ruler, installed another, and attempted to crush a widespread resistance movement.

Despite a 7-year reign of terror by over 115,000 Soviet troops, the Soviet attempt to subjugate the Afghans has failed. The puppet Kabul regime remains weak and illegitimate. The resistance movement has fought the Soviet army to a standstill. And the Afghan people, whose support for the resistance is overwhelming, have continued to show an indomitable will to be free.

During the past year, the Afghan people have advanced their cause in a variety of ways. On the political front, the resistance Alliance has grown more cohesive and more effective. One major step in this direction occurred January 17, when the seven Alliance leaders put forward their own comprehensive plan for a free Afghanistan. The Alliance has also become the focal point for the distribution of social services and humanitarian resources inside the country, thereby helping to stem the outflow of refugees and laying the basis for reestablishing a free Afghanistan.

On the battlefield, the resistance has demonstrated growing strength. Notable achievements include an increased ability to counter communist air power, the renewal of heavy military pressure on Kabul, the resurgence of resistance activity in the north, and the defeat of communist efforts to consolidate control over Kandahar and Herat, Afghanistan's second and third largest cities.

The success of the resistance may well have prompted the Soviets to demonstrate a new interest in the political side of the conflict. While we welcome statements that the Soviets wish to bring about a political settlement and to withdraw their troops, we shall continue to gauge their intentions by the only accurate measurement—their actions.

Thus far, Soviet proposals have lacked realism and substance. They appear to be aimed at deceiving world opinion rather than at seeking peace and self-determination. A cease-fire without reference to the withdrawal of Soviet troops is meaningless. National reconciliation with a communist-dominated government as its starting point and its foreordained result is a sham that the resistance, the refugees, and the people of Afghanistan will never accept.

Acts of war by the Soviet Union and its Afghan allies totally belie conciliatory intentions. As peace talks began in Geneva last month, communist aircraft swept into Pakistani territory three times in as many days and bombed refugee camps and crowded bazaars, killing over 100 people and wounding 250. Around the same time, terror bombings inside Pakistan—notably a February 19 blast outside an Afghan refugee office and a nearby school—also started to increase. These acts represent a crude attempt to dispirit the

resistance and to intimidate Pakistan into abandoning its courageous and principled support of the Afghan people. Such attempts have not worked before and will not work now.

Negotiations to bring this war to an end have been taking place in Geneva for over 5 years. We support them. The U.N. negotiator has announced that a timetable for the withdrawal of Soviet troops is the sole remaining obstacle to a settlement. On this matter, we endorse Pakistan's statements that such a timetable must be based solely on logistical criteria and be expressed in terms of months, a very few months, not years.

By presenting unrealistic timetables apparently designed to crush the resistance and achieve a military solution before the Red Army withdraws, the onus for continued fighting falls on the Soviets and their Afghan puppets. The U.N.-sponsored talks are currently suspended. Meanwhile, the Pakistanis have held firm on the key requisites, including Afghan self-determination. As a result there are some faint indications that the Soviets may have begun to understand the need for a realistic political solution.

In these circumstances, it is important to maintain steadily increasing pressure on the Soviets. It is essential that we and others continue to support Pakistan in the face of increasing cross-border attacks and sabotage attempts. Most important, it is essential that we and others continue our support of the brave struggle by the Afghan resistance. We must not let up until all Soviet troops depart and the Afghan people are free to determine their own future. Nothing less will suffice. I am proud of the strong support provided over the past 6 years by my Administration, by the Congress, and by the American people. I am confident we shall continue to stand firm and not falter.

The Congress, by Senate Joint Resolution 63, has authorized and requested the President to issue a proclamation designating March 21, 1987, as "Afghanistan Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 21, 1987, as Afghanistan Day, and I urge the American people to participate in appropriate observances to reflect our support of the Afghan struggle for freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of March, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-6530
Filed 3-23-87; 11:10 am]
Billing code 3195-01-M

Editorial note: For the President's remarks of Mar. 20 on signing Proclamation 5621, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 11).

Presidential Documents

Proclamation 5622 of March 20, 1987

National Energy Education Day, 1987

By the President of the United States of America

A Proclamation

As we approach the 1990's, America must be prepared to formulate energy policy with boldness and vision. Virtually every sector of our highly complex, technological, and interdependent society requires a reliable energy source to keep it functioning smoothly and efficiently.

Community leaders and school officials, both public and private, can help ensure that we meet our energy needs by focusing public attention on the crucial role of education about energy issues. A deeper understanding by teachers, students, and all our leaders of tomorrow about the nature of the energy challenges that lie before us is necessary if we are to continue to meet our energy requirements both at home and abroad.

America is already meeting its energy needs in many important ways. We are continuing to fill the Strategic Petroleum Reserve to reach an eventual goal of 750 million barrels. At the same time, we are also seeking to encourage nuclear power plant construction that is reliable, cost-effective, and environmentally sound. We have made much progress in energy—and by combining the technology of today with the promise and vision of American know-how tomorrow, America will continue to be in the forefront of energy production into the 21st century.

The Congress, by Senate Joint Resolution 19, has designated Friday, March 20, 1987, as "National Energy Education Day" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Friday, March 20, 1987, as National Energy Education Day, and I call upon the people of the United States to observe this day with appropriate programs and activities to promote energy education in America's schools.

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

Ronald Reagan

[FR Doc. 87-6531
Filed 3-23-87; 11:11 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-018]

Oriental Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations by removing from the Domestic Quarantine Notices "Subpart—Oriental Fruit Fly" regulations, which quarantined portions of Riverside and San Bernadino Counties in California and imposed restrictions on the interstate movement of regulated articles from these quarantined areas. The regulations were established for the purpose of preventing the artificial spread of Oriental fruit fly into noninfested areas of the United States. Since we have determined that all infestations of Oriental fruit fly have been eradicated in California, the regulations are no longer necessary.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Acting Assistant Director, Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

We published an interim rule in the **Federal Register** (51 FR 44443–44444) on December 10, 1986. We received no comments. The facts presented in the interim rule, which was effective on the date of publication, still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

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

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

We are affirming the removal of restrictions that had been imposed on the interstate movement of regulated articles from portions of Riverside and San Bernadino Counties, California. Within the quarantined areas, there are fewer than 100 small entities that are affected, including no more than 5 packers, 5 outdoor fruit stands, 9 nurseries and a number of groceries and retail stores. Except for the packers and nurseries, most of the sales by these entities are local intrastate and are not affected by the removal of the quarantine.

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule without change, the interim rule that amended 7 CFR Part 301 and that was published at 51 FR 44443–44444 on December 10, 1986.

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

Done in Washington, DC, this 19th day of March, 1987.

W.F. Helms,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87-6308 Filed 3-23-87; 8:45 am]
BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 419

[Amdt. No. 2; Doc. No. 4097S]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1987 and succeeding crop years. The intended effect of this rule is to amend the Malting Barley Option amendment to: (1) Change to an Actual Production History (APH) basis for insuring malting barley with separate record requirements for two-rowed and six-rowed barley; (2) define the length of time for providing acceptable records of production; (3) provide that contracted barley accepted by the company, or barley qualifying as contracted barley, will be used to determine indemnity without regard to unit; (4) provide an applicable price for indemnity computation if a fixed contract price cannot be determined; (5) provide that the Amendment will be continuous; and (6) clarify the type and variety of malting barley insured. The authority for

the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: March 24, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1991.

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

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 10–450.

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

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

The present Malting Barley Option will not be available for the 1987 crop year. FCIC has determined that the amended Malting Barley Option contained herein shall substitute for the present option.

All present FCIC insureds who used the Malting Barley Option for the 1986 crop year have been notified that the present option is unavailable and that a new option will be available for the 1987 crop year. FCIC hereby amends the Malting Barley Option Amendment contained in the Barley Crop Insurance Regulations (7 CFR Part 419) in the following instances:

(1) Change to an Actual Production History (APH) basis for insuring malting barley with separate record requirements for two-rowed and six-rowed barley.

(2) Define the length of time for providing acceptable records of production.

(3) Provide that contracted barley accepted by the company, or barley qualifying as contracted barley, will be used to determine indemnity without regard to unit.

(4) Provide an applicable price for indemnity computation if a fixed contract price cannot be determined.

(5) Change the Malting Barley Option Amendment to a continuous agreement.

(6) Clarify the type and variety of malting barley insured.

In addition to the changes set forth above, FCIC clarifies the placement in the document of the Collection of Information and Data (Privacy Act) Statement and the penalty provision for the submission of false statements, as follows:

1. The Collection of Information and Data (Privacy Act) Statement appearing in the notice of proposed rulemaking created the impression that the statement was part of the rule. This statement is not part of the rule and is printed on the reverse of the Malting Barley Option Amendment

2. The penalty provision appearing on the Malting Barley Option Amendment just below the heading, has been changed to correctly cite the applicable sections of the U.S. Code.

For purposes of this action the Malting Barley Option Amendment is published in its entirety, including the changes itemized above and minor corrections to language and content for clarification.

On Monday, January 26, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 2711, to amend the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1987 and succeeding crop years. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule is hereby adopted as a final rule.

Inasmuch as there is presently no Malting Barley Option Amendment effective for the 1987 crop year, and to afford insureds sufficient time to consider the option and include it in their plans for crop insurance protection, good cause exists for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 419

Crop insurance; Barley.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1987 and succeeding crop years in the following instance:

PART 419—[AMENDED]

1. The authority citation for 7 CFR Part 419 continues to read as follows:

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

2. 7 CFR 419.8(b) is amended by revising the Malting Barley Option Amendment to read as follows:

§ 419.8 Malting Barley Option Amendment.

* * * * *

(b) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Barley—Crop Insurance Policy Malting Barley Option Amendment

(This is a continuous amendment. Refer to section 15 of the Barley Crop Insurance Policy.)

Note.—A false claim made to the Corporation, or a false statement made on a matter within the jurisdiction of the Corporation, may subject the maker to criminal and civil penalties (18 U.S C. 1001, 1006; 31 U.S.C. 3729, 3730).

Insured's Name _____

Contract No._____

Address _____

Crop year_____

Identification No._____

SSN_____ Tax_____

It is hereby agreed to amend the Federal Crop Insurance Barley Policy under, and in accordance with, the following terms and conditions:

1. The Amendment must be submitted to us on or before the final date for accepting applications for the initial crop year in which you wish to insure your malting barley acreage under this Amendment.

2. You must have a Federal Crop Insurance Barley Policy ("Basic Policy") in force and have elected the highest price election.

3. You must provide acceptable records of your acreage and production for malting barley, by type or variety for the last three years in which malting barley was produced by you. These records will be used to establish your production guarantee.

4. All barley acreage in the county planted to a malting type or variety in which you

have a share, will be insured as one unit under this Amendment unless we agree in writing to multiple units. All barley acreage of any non-malting type or variety, not under a malting barley contract, will be insured under the terms of the Basic Policy.

5. You must have a contract with a processor in the business of buying malting barley. The contract must be executed and binding on both you and the processor before the acreage report is due and show the quantity of contracted malting barley. A copy of all contracts must be submitted with the acreage report.

6. Your unit production guarantee under this Amendment is the lesser of:

a. Your share of the bushel amount of your malting barley contract; or

b. Your share of the production guarantee at the 75% coverage level for all insurable malting barley acreage on the unit.

7. Your production unit guarantee multiplied by the difference between the malting barley contract price[1] and the price election under the Basic Policy will be your dollar amount of insurance for the unit.

8. Your premium will be your dollar amount of insurance for malting barley multiplied by the average basic barley rate for your insurable malting barley acreage multiplied by the applicable malting barley premium factor contained in the actuarial table.

9. All malting barley production from insurable malting barley acreage will be used to determine your indemnity without regard to the unit arrangement provided under the Basic Policy.

10. The indemnity for each malting barley unit under this amendment will be determined by:

a. Subtracting from your unit production guarantee under this Amendment, your share of the production of malting barley to count; and

b. Multiplying that result by the difference between the contract price and the highest price election under the Basic Policy.

11. a. The production of malting barley to count (in bushels) will include all:

(1) Mature barley production accepted by the processor;

(2) Mature barley which meets the standards contained in subparagraph 11.b. below;

(3) Mature barley which fails to qualify under (1) or (2) because of uninsurable causes; and

(4) Appraised production not included in 11.a. (1), (2), or (3) above.

b. The standards referred to in subparagraph 11.a. above are:

(1) Two-rowed Malting Barley production is considered acceptable if it has a test weight of at least 48 pounds per bushel; contains at least 93 percent sound barley, no more than 10 percent thin barley or 2 percent black barley; and is not smutty, garlicky, or ergoty.

(2) Six-rowed Malting Barley production is considered acceptable if it has a test weight of at least 43 pounds per bushel; contains at least 90 percent sound barley, no more than 15 percent thin barley or 2 percent black barley; and is not smutty, garlicky, or ergoty.

c. All grading factors in subparagraph 11.b. above must be determined by a grain grader licensed under the United States Grain Standards Act from samples obtained by a licensed sampler or our loss adjuster. Any production not accepted by a processor, which is not graded, will be considered malting barley to count.

d. Harvested production of malting barley to count will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.0 percent for any mature malting barley production.

12. All provisions of the Basic Policy not in conflict with this Amendment are applicable.

13. As used in this Amendment:

a. "Processor" means any business enterprise regularly engaged in the malting of barley or brewing malt beverages for human consumption.

b. "Two-rowed Malting Barley" means barley as defined in the Official United States Standards for Barley.

c. "Six-rowed Malting Barley" means barley as defined in the Official United States Standards for Barley.

d. "Insurable malting barley acreage" means all acreage insurable under the Basic Barley Policy planted to any type or variety of malting barley.

Following is the Collection of Information and Data (Privacy Act) Statement appearing on the reverse side of the Malting Barley Option Amendment:

Collection of Information and Data (Privacy Act)

To the extent that the information requested herein relates to the information supplier's individual capacity as opposed to the supplier's entrepreneurial (business) capacity, the following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552(a)). The authority for requesting information to be furnished on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) and the Federal Crop Insurance Corporation Regulations contained in 7 CFR Chapter IV.

The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process this form to provide insurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums, and pay indemnities. Furnishing the Tax Identification Number (Social Security Number) is voluntary and no adverse action will result from the failure to furnish that number. Furnishing the information required by this form, other than the Tax Identification (Social Security) Number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of this form, rejection of or substantial reduction in any claim for indemnity, ineligibility for insurance, and a unilateral determination of the amount of premium due. (See the front of this form for information on the consequences of furnishing false or incomplete information).

The information furnished on this form will be used by federal agencies, FCIC employees, and contractors who require such information in the performance of their duties. The information may be furnished to: FCIC contract agencies, employees and loss adjusters; reinsured companies; other agencies within the United States Department of Agriculture; the Internal Revenue Service; the Department of Justice, or other federal or State law enforcement agencies; credit reporting agencies and collection agencies; and in response to judicial orders in the course of litigation.

Done in Washington, DC, on March 6, 1987.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-6325 Filed 3-23-87; 8:45 am]

BILLING CODE 3410-08-M

[1] If a specific contract price cannot be determined from the contract by the acreage reporting date, the malting barley contract price will be the price specified in the actuarial table for that purpose.

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7 CFR Part 452

[Docket No. 4093S]

Safflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) adds a new Part 452 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as the Safflower Crop Insurance Regulations (7 CFR Part 452), effective for the 1987 and succeeding crop years. The intended effect of this rule is to prescribe procedures for insuring safflowers in counties approved by the Board of Directors of FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: March 24, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is November 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers,

individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

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

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

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

Background

The Safflower crop insurance program was first approved by the Board of Directors for the 1964 crop year and was implemented in Cheyenne and Deuel counties, Nebraska. Following consecutively heavy losses and low participation, the program was revoked effective with the 1967 crop year.

On October 9, 1986, the Board of Directors of the Corporation determined to reinstate the program and thus authorized the Manager to issue a program for insuring safflowers. The addition of a safflower crop insurance program is in response to many requests from Congress and producers. The provisions contained in this rule will be effective for the 1987 and succeeding crop years.

On Monday, January 26, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 2713, proposing to issue a new Part 452 in Chapter IV of Title 7 of the Code of Federal regulations, prescribing procedures for insuring safflowers effective for the 1987 and succeeding crop years. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the notice of proposed rulemaking at 52 FR 2713 is hereby adopted as final.

In order to provide sufficient time to those producers wishing to participate in this program for the 1987 crop year, it is necessary that these provisions be made available as quickly as possible. Therefore good cause is found for making this rule effective in less than 30 days after publication of this document in the **Federal Register.**

List of Subjects in 7 CFR Part 452

Crop insurance; Safflower.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby adds a new Part 452 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as the Safflower Crop Insurance Regulations, effective for the 1987 and succeeding crop years. Part 452 is added to read as follows:

PART 452—SAFFLOWER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

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

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 452.1 Availability of safflower crop insurance.

Insurance shall be offered under the provisions of this subpart on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended, (the Act). The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing substantially the same terms and conditions as the contract set out in this part. No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured. If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums. An insured whose contract with the Corporation or with a Company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility. All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 452.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for safflowers which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 452.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 452.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 452.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the safflower crop insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto.

Requests for relief under this section must be submitted to the Corporation in writing.

§ 452.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the safflower crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 452.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the safflower crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a safflower contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Safflower Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Safflower—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

Agreement To Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects (including insect infestation);

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(8).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good safflower farming practices or the grower provisions of the safflower contract;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project;

(4) The failure or breakdown of irrigation equipment or facilities;

(5) The failure to follow recognized good safflower irrigation practices; or

(6) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be safflower seed ("safflowers") planted for harvest, grown on insured acreage, and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be safflowers planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured safflowers at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Which is destroyed, it is practical to replant to safflowers, and such acreage is not replanted;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree, in writing, on our form to coverage reduction;

(5) Of volunteer safflowers;

(6) Planted to a type or variety of safflowers not established as adapted to the area or excluded by the actuarial table;

(7) Planted with a crop other than safflowers;

(8) Planted for the development or production of hybrid seed or planted for experimental purposes; or

(9) On which safflowers, sunflowers, dry beans, soybeans, mustard, rapeseed, or lentils have been grown the preceding crop year.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good safflower irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of safflowers planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any safflowers planted in that county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report, we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75 percent of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches when the safflowers are planted and ends at the earliest of:

a. Total destruction of the safflowers;

b. Harvest;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which the safflowers are normally harvested.

8. Notice of Damage or Loss.

a. In case of damage or probable loss: (1) You must give us written notice if:

(a) During the period before harvest, the safflowers on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

(2) Insured acreage may not be put to another use until we have appraised the safflowers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(3) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(4) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested safflowers (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the safflowers on the unit;

(b) Harvest of the unit; or

(c) October 31 of the crop year.

b. You must obtain written consent from us before you destroy any of the safflowers which are not to be harvested.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for Indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the safflowers on the unit;

(2) Harvest of the unit; or

(3) October 31 of the crop year.

b. We will not pay any indemnity unless you:

(1) Establish the total production of the safflowers on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting from that result the total production of safflowers to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature safflower production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 8.0 percent.

(2) Mature safflower production will be adjusted for quality when, due to insurable causes, such production has a test weight below 35 pounds per bushel or has seed damage in excess of 25 percent as determined by a grader licensed to grade Safflowers by the Federal Grain Inspection Service.

(3) Mature safflower production which is eligible for quality adjustment, due to insurable causes, will be adjusted by:

(a) Dividing the value per pound of damaged safflowers by the average market price per pound for undamaged safflowers; and

(b) Multiplying the result by the number of pounds of such safflowers.

For the purpose of the insurance, the applicable price for damaged safflowers will be not less than fifty percent of the average market price for undamaged safflowers.

(4) Any harvested production from other volunteer plants growing in the safflowers will be counted as safflowers on a weight basis.

(5) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of safflowers becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(7) The amount of production of any unharvested safflowers may be determined on the basis of field appraisals conducted after the end of the insurance period.

(8) If you elect to exclude hail and fire as insured causes of loss and the safflowers are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. We have a policy of paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees' or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Farm.

You must keep, for three years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all safflowers produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity, will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 3 consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of safflower crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us. The Actuarial Table is available for public inspection in your service office, and shows the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding safflower insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located an adjacent county within the state.

d. "Crop year" means the period within which the safflowers are normally grown and is designated by the calendar year in which the safflowers are normally harvested.

e. "Harvest" means the completion of combining or threshing of safflowers on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the safflowers or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of safflowers in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the safflowers on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

l. "Value per pound of damaged safflower seeds" means the value for the low test weight (below 35 pounds per bushel) or seed damage in excess of 25 percent in the safflower seeds.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations, (7 CFR Part 400, Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on March 5, 1987.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-6326 Filed 3-23-87; 8:45 am]

BILLING CODE 3410-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Authorization To Administer Radioactive Aerosols

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of generic exemption.

SUMMARY: This notice exempts Nuclear Regulatory Commission (NRC) medical use licensees from the requirement to administer radioactive aerosols to patients only in rooms that are at negative pressure.

EFFECTIVE DATE: March 24, 1987.

ADDRESSES: Copies of the documents referred to in this notice may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman L. McElroy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 427-4108.

SUPPLEMENTARY INFORMATION:

Background

In 1983, the NRC authorized medical use licensees to administer radioactive aerosols (see 48 FR 5217, published February 4, 1983). This clinical procedure is helpful when diagnosing lung disease. The only safety measure required specific to this clinical procedure was that the licensee had to administer the radioaerosol "with a closed, shielded system that either is vented to the outside atmosphere through an air exhaust or provides for collection and disposal of the aerosol." (See 10 CFR 35.14(b)(8).)

Later, in a proposed revision of 10 CFR Part 35 (50 FR 30616, published July 26, 1985), the NRC also proposed to require, for worker safety reasons, that aerosols be administered only in rooms that are at negative pressure (see § 35.205 of the proposed rule). The NRC received only one comment on the proposed section (which was negative and submitted by Mallinckrodt, Inc. of St. Louis, Missouri, an aerosol device manufacturer), and retained the requirement in the final rule (see § 35.205(b) at 50 FR 36932, published October 20, 1986).

Request

On March 2, 1987, the NRC received a letter from Mallinckrodt requesting the NRC to stay the April 1, 1987 implementation of 10 CFR 35.205(b). Mallinckrodt stated that implementation of the requirement would have an adverse impact on public health and safety because many medical use licensees do not have rooms that are at negative pressure, and in many cases patients who need this clinical procedure cannot be moved safely to a room that is at negative pressure. Mallinckrodt further stated that the negative pressure requirement is not needed because a large number of clinical procedures can be performed in a room that is at ambient pressure without exceeding the applicable maximum permissible air concentration for unrestricted areas.

Mallinckrodt also submitted abstracts of thirteen journal articles demonstrating the efficacy of the aerosol ventilation clinical procedure, and three letters from nuclear medicine specialists that supported the Mallinckrodt request.

Findings

The NRC has examined Mallinckrodt's request and other information and made a determination that there may be a sound reason to believe that implementation of the subject requirement may adversely affect the public health and safety because some patients cannot be moved safely to rooms that are at negative pressure for the purpose of being administered radioaerosols. The NRC also believes that there may be a sound reason to believe that the negative pressure requirement is not needed to assure public and worker health and safety. For these two reasons the NRC believes it should not impose the negative pressure requirement without further examination of the issues.

The NRC notes that relief from the negative pressure requirement of § 35.205(b) does not relieve licensees from the requirement to comply with other NRC regulations, orders, or license conditions limiting maximum permissible air concentrations in controlled and uncontrolled areas.

Legal Basis

Section 30.11(a) of 10 CFR Part 30 allows the Nuclear Regulatory Commission, on its own initiative, to grant exemptions from the requirements of Part 35 if they are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

This exemption is authorized by law because it is permitted under Section 81 of the Atomic Energy Act of 1954, as amended.

This exemption will not endanger life or property or the common defense and security because the NRC has reviewed the radiation safety issues related to this request and believes that the radiation safety measures requiring collection or controlled dispersal of aerosols are adequate to assure public health and safety without imposing the negative pressure requirement.

This exemption is in the public interest because it will allow physicians to administer radioaerosols to patients who might not otherwise be able to receive them safely or efficiently.

Scope, Effective Date, and Expiration of Generic Exemption

Effective on publication in the **Federal Register** and until the NRC publishes its final findings in the **Federal Register** regarding safety measures for radioaerosol clinical procedures, NRC licensees that are authorized to administer radioaerosols to patients are exempted from the requirement of 10 CFR 35.205(b) when administering radioaerosols with a system that is either directly vented to the atmosphere through an air exhaust, or provides for collection and decay or disposal of the aerosol.

Signed this 17th day of March, 1987.

Hugh L. Thompson, Jr.,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 87-6384 Filed 3-23-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-28-AD; Amdt. 39-5587]

Airworthiness Directives; Gulfstream Aerospace Models 112, 112TC, and 114 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Following issuance of a Notice of Proposed Rulemaking on October 9, 1984, Amendment 39-5003, Airworthiness Directive (AD) 85-03-04 was issued February 21, 1985, effective March 25, 1985, as corrected March 19, 1985. That AD, which supersedes AD 77-16-09, requires modification of the front seat base structure and relocation of the shoulder strap anchor on Gulfstream Models 112 and 114 Series airplanes. Subsequently, the effectivity of Amendment 39-5003 was suspended effective July 2, 1985, to enable the FAA to consider more fully information submitted by a petitioner which raised substantial issues in support of recision of the amendment. The petition to rescind the AD questioned whether the modification imposed by AD 85-03-04R1 offered a significant improvement over that required by AD 77-16-09.

This AD revises and reissues AD 85-03-04R1 to have the effect of allowing either the modification of AD 77-16-09 or the modification specified in AD 85-03-04R1 as being acceptable.

EFFECTIVE DATE: April 27, 1987.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

ADDRESSES: Gulfstream Aerospace Service Bulletin Nos. SB-112-45A and SB-114-21A, both dated April 7, 1977, and SB-112-70A, Revision 1, and SB-114-21A, Revision 1, both dated February 23, 1987, applicable to this AD may be obtained from Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123. This information may be examined at the Rules Docket No. 84-CE-28-AD, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Dragset, Airplane Certification Branch, ASW-150, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101; Telephone (817) 624-5155.

SUPPLEMENTARY INFORMATION: On March 22, 1985, a petition was filed on behalf of the Aircraft Owners and Pilots Association (AOPA) for reconsideration of Airworthiness Directive (AD) 85-03-04, Amendment 39-5003, Docket 84-CE-28-AD, under the provisions of § 11.93 of the Federal Aviation Regulations (FAR). The AD requires modification of the front seat base structure and relocation of the shoulder strap anchor on certain Gulfstream Aerospace (formerly Rockwell) Models 112, 112B, 112TC, 112TCA, 114, and 114A airplanes.

The AOPA specifically requested the FAA to rescind the AD in its entirety because it is contrary to the public interest in that the rule does not offer a significant improvement over the AD (AD 77-16-09) it supersedes.

The AOPA asserted that the FAA incorrectly concluded on two other occasions (original certification and the previous AD) that the manufacturer's test data proved that the seat design provided for an acceptable level of safety and that the latest manufacturer's testing and resultant modification should be carefully reviewed by the FAA.

The AOPA also recommended that the FAA should use the operating experiences from affected owners in reconsidering AD 85-03-04.

The FAA reopened the investigation of the Gulfstream seat installation in response to the petition and has given consideration to the major issues raised.

While the initial seat design static tests were incomplete, the subsequent redesign was tested properly to the certification requirements and that revised configuration was made mandatory by AD 77-16-09. Subsequent seat failures during apparently survivable accidents prompted the latest seat attachment design, which the FAA has also confirmed was fully and properly tested in accordance with the appropriate rules. It has not been possible, however, to definitively establish that the accident loads and load factors in the apparently survivable accidents were within the emergency landing condition load factor envelope of FAR 23.561.

In view of the additional information that has come to light since the issuance of AD 85-03-04, including that presented by AOPA and Gulfstream Aerospace, sufficient justification exists to revise and reissue the AD. At the same time, the latest seat retention configuration has been substantiated to higher than the present static load requirements as a means to compensate for the fuselage deflection phenomena of this design that affects the seat retention.

Therefore, the FAA proposed to revise and reissue AD 85-03-04R1 to allow either configuration to be acceptable. The proposal was published in the **Federal Register** on December 15, 1986 (51 FR 44922, 44923, 44924). Interested persons have been afforded an opportunity to participate in the making of this amendment.

In response to the proposal, a comment was received from the AOPA supporting the proposed AD. In addition, comments were received from Gulfstream Aerospace Corporation objecting to the proposed amendment. The changes suggested by Gulfstream to administratively correct some clerical errors in the proposed AD have been incorporated. Gulfstream further requests that the FAA reconsider the proposed AD and reinstate the original version of AD 85-03-04. In support of this request, Gulfstream reviewed the certification and service history of the seats and seat retention systems. A central issue involves whether it was appropriate to consider fuselage deflection in seat certification. Gulfstream asserted that reinstatement of the original version of AD 85-03-04 would result in a safer seat and seat restraint installation.

The FAA has not been able to establish that the accident loads and load factors in the apparently "survivable" accidents were within the design parameters for the aircraft seats and attachments. It cannot be concluded that the modifications specified in AD 85-03-04 offer a significant improvement over the modification in AD 77-16-09. Accordingly, the proposal is being adopted without change, except minor clerical corrections and inclusion of the latest Service Bulletin revision.

There will be no cost to the public associated with this revision. Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By revising and reissuing AD 85-03-04R1, Amendment 39-5003, in its entirety as follows:

Gulfstream Aerospace (Rockwell): Applies to Models 112 (S/N's 1 through 499); 112TC (S/N's 13000 through 13149); and 114 (S/N's 14000 through 14149) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To improve seat retention and passenger restraint during crash landing or accident impact, accomplish the following:

(a) Within the next 100 hours time-in-service, or one calendar year after the effective date of this AD, whichever comes first, modify the front seats and belt attachments in accordance with one of the following modifications:

(1) Rockwell Service Bulletin Nos. SB-112-45A or SB-114-5A, both dated April 7, 1977, as applicable, or

(2) Gulfstream Aerospace Service Bulletin Nos. SB-112-70A, Revision 1, or SB-114-21A, Revision 1, both dated February 23, 1987, as applicable.

Note.—The modification specified in paragraph (a)(1) above is the modification referenced in AD 77-16-09. The modification specified in paragraph (a)(2) above is the modification referenced in AD 85-03-04R1.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where the repair can be performed.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76101; Telephone (817) 624-5150.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123; or may examine the documents referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This AD revises AD 85-03-04R1, Amendment 39-5003.

This Amendment becomes effective on April 27, 1987.

Issued in Kansas City, Missouri, on March 12, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-6238 Filed 3-23-87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3209]

J. Thomas Arno, M.D. 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 prohibits, among other things, 61 doctors in Meadville, Pennsylvania from entering into any agreement to refuse to deal with any physician, group of physicians, or hospital, or from refusing to refer patients, for the purpose of restricting or lessening competition.

DATE: Complaint and Order issued March 2, 1987.[1]

FOR FURTHER INFORMATION CONTACT: FTC/S-3115, M. Elizabeth Gee, Washington, DC 20580. (202) 326-2756.

SUPPLEMENTARY INFORMATION: On Friday, Nov. 28, 1986, there was published in the **Federal Register**, 51 FR 43022, a proposed consent agreement with analysis In the Matter of J. Thomas Arno, M.D., Azhar Aslam, M.D., Barry B. Bittman, M.D., Raymond J. Bridge, M.D., Gerald M. Brooks, M.D., J. Henry Burkholder, M.D., Kwang Y. Choi, M.D., Candido T. Cortes, Jr., M.D., Aiman N. Daghestani, M.D., Arthur G. Deininger, M.D., Timothy Downing, M.D., M. Bruce Dratler, M.D., Robert A. Driscoll, M.D., David W. Dunn, M.D., Victor B. Farrah, D.O., Nicholas J. Fedorka, D.M.D., Edward M. Fine, M.D., Mark R. Foster, M.D., Luis C. Gomez, M.D., Danilo L. Guanzon, M.D., Mary B. Hagamen, M.D., Alanson O. Hibbard, M.D., William T. Holland, Jr., M.D., Ronald A. Kellogg, M.D., Lucille Kirchner, M.D., David D. Kirkpatrick, Jr., M.D., Robert L. Kirkpatrick, M.D., George Kwitka, M.D., James H. Larson, M.D., Curtis H. Laub, M.D., Donald E. LaVay, M.D., Ovunda A. Lawson, D.O., Seung C. Lee, M.D., Brian F. McIntosh, M.D., James R. McLamb, M.D., Mohamed Moakeh, M.D., Rebecca F. Morris, M.D., William J. Morris, M.D., Spero E. Moutsos, M.D., Robert N. Moyers, M.D., John B. Nesbitt, M.D., Vincente R. Ordinario, Jr., M.D., Edward J. Owens, D.O., Lucia Pagniello, M.D., William K. Petrella, D.O., Joseph G. Piroch, M.D., Paul T. Poux, M.D., Tariq Qureshi, M.D., Renato P. Ramirez, M.D., Stacey A. Robertson, D.O., Diogenes A. Saavedra, M.D., Robert A. Santora, M.D., Lawson C. Smart, M.D., Fred W. Strickland, Jr., M.D., William D. Sullivan, M.D., John O. Taylor, M.D., Christopher W. Thomas, M.D., Ronald M. Vrablik, M.D., Thomas M. Watson, M.D., Randy S. Zelen, M.D., and John B. Zinnamosca, M.D., 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—Aiding, Assisting and Abetting Unfair or Unlawful Act or Practice: § 13.290 Aiding, assisting and abetting unfair or unlawful act or practice. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.388 To control allocation and solicitation of customers; § 13.470 To restrain and monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc.

List of Subjects in 16 CFR Part 13

Physicians, 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)

Emily H. Rock,

Secretary.

[FR Doc. 87-6330 Filed 3-23-87; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th St. and Pa. Ave., NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin and Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of two new animal drug applications (NADA's) held by Zip Feed Mills. The NADA's provide for use of Type A articles containing tylosin or hygromycin B for making Type C swine and chicken feeds. FDA is also amending the regulations to remove the firm from the list of sponsors of approved NADA's. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these NADA's.

EFFECTIVE DATE: April 3, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3184.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Zip Feed Mills' NADA's 97–259 and 132–916. NADA 97–259 and 21 CFR 558.625 (b)(18) provide for use of a 0.4-, 2-, 4-, or 10-gram-per-pound tylosin (as tylosin phosphate) Type A article for making Type C swine feeds. NADA 132–916 and 21 CFR 558.274 (a)(4) and (c)(1) (i) and (ii) provide for use of 2.4- and 8-gram-per-pound hygromycin B Type A articles to make 0.6-gram-per-pound articles subsequently used to make Type C swine and chicken feeds. This document removes those portions of the regulations that reflect approval of the NADA's for tylosin and hygromycin B. In addition, because the firm is no longer sponsor of any approved NADA's, 21 CFR 510.600(c) (1) and (2) is amended to remove the firm from the list of sponsors of approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

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, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Zip Feed Mills" and in paragraph (c)(2) by removing the entry for "017434".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. 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.

§ 558.274 [Amended]

4. Section 558.274 *Hygromycin B* is amended in paragraph (a)(4) by removing "017434" and in paragraphs (c)(1) (i) and (ii) in the "Sponsor" column by removing "017434".

§ 558.625 [Amended]

5. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(18).

Dated: March 17, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–6244 Filed 3–23–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R–87–1306; FR–2252]

Eligibility Requirements: Mortgage Approval; Correction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared in the **Federal Register** on Thursday, February 5, 1987 (52 FR 3606) which sets forth HUD approval requirements for mortgagees participating in its mortgage insurance programs. The document corrects two typographical errors found in § 203.7(c) of the final rule text.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755–7055. (This is not a toll-free number.)

Accordingly, the Department is correcting FR Document 87–2303, published on February 5, 1987, as follows:

§ 203.7 [Amended]

On page 3611, in column three, § 203.7(c) is revised by removing "244(g)" and substituting "244(f)" and by removing "section 24" and substituting "section 244".

Dated: March 19, 1987.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 87–6338 Filed 3–23–87; 8:45 am]

BILLING CODE 4210–27–M

24 CFR Part 511

[Docket No. R–87–1291; FR–2243]

Lead-Based Paint Hazard Elimination in Community Development Block Grant, Urban Development Action Grant, Secretary's Fund, Section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading Programs; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared in the **Federal Register** on Tuesday, February 17, 1987 (52 FR 4870) which dealt with the elimination of the hazard of lead-based paint in the Community Development Block Grant, Urban Development Action Grant, Secretary's Fund, section 312 Rehabilitation Loan, Rental Rehabilitation and Urban Homesteading Programs. There are two corrections made to the final rule text. The first adds language to the text of § 511.11(f)(3)(iii)(B) which was inadvertently omitted. The second corrects a typographical error that

resulted in an erroneous cross reference in § 511.11(f)(3)(iv).

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel for Fiscal Management and Energy Programs, Office of General Counsel, Room 10248, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755–6550. (This is not a toll-free number.)

Accordingly, the Department is correcting FR Document 87–3280, published on February 17, 1987, as follows:

§ 511.11 [Amended]

1. On page 4884, in the first column, paragraph 511.11(f)(3)(iii)(B) is revised by removing "leainspection and approval of the work" and substituting "lead-based paint, the entire exterior chewable surface shall be treated. Treatment shall be performed before final inspection and approval of the work."

2. On page 4484, in the first column, paragraph 511.11(f)(3)(iv) is revised by removing "24 CFR 23.24(b)(2)(ii)" and substituting "24 CFR 35.24(b)(2)(ii)".

Dated: March 19, 1987.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 87–6339 Filed 3–23–87; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8128]

Miscellaneous Provisions Relating to the Tax Treatment of Partnership Items; Procedure and Administration; Corrections to Temporary Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Corrections to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations that were published in the **Federal Register** on Thursday, March 5, 1987 (52 FR 6779) as Treasury Decision 8128. The rules relate to the tax treatment of certain partnership items.

FOR FURTHER INFORMATION CONTACT: Robert E. Shaw, 202–566–3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections reflect changes to the applicable tax law made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 and section 714(p)(1) of the Tax Reform Act of 1984. The rules clarify miscellaneous provisions related to the tax treatment of partnership items and provide guidance to partners and partnerships affected.

Need for Corrections

As published, Treasury Decision 8128 contains several typographical errors that, if not corrected, would cause confusion to taxpayers and practitioners.

Corrections of Publication

Accordingly, the publication of temporary regulations (T.D. 8128), which was the subject of FR Doc. 87–4573, is corrected as follows:

PART 301—[AMENDED]

Paragraph 1. In the authority citations that are listed in Paragraph 1., page 6780, third column, the citation that reads "Section 301.6223 (b)-2T also issued under 26 U.S.C. 6230 (k)." is removed.

Par. 2. In the instructional language in Par. 2., page 6781, first column, the reference to "301.6223 (b)-2T" is removed, and the reference to "301.6223 (b)-1T" is corrected to read "301.6223 (h)-1T".

§ 301.6223(a)-1T [Amended]

Par. 3. In § 301.6223(a)-1T, paragraph (a) (2), page 6783, first column, the line that reads "mailed to the person who is the tax" is corrected to read "mailed to the person who is the tax matters".

§ 301.6223(c)-1T [Amended]

Par. 4. In § 301.6223(c)-1T, paragraph (c), page 6784, third column, in the last sentence of that paragraph the language "pass-through" is corrected to read "pass-thru".

§ 301.6227(c)-1T [Amended]

Par. 5. In § 301.6227(c)-1T, paragraph (a), page 6788, third column, that part of the parenthetical clause that reads "if the request if granted" is corrected to read "if the request is granted".

§ 301.6231(a)(1)-1T [Amended]

Par. 6. In § 301.6231(a)(1)-1T, paragraph (a)(3), page 6789, third column, in the first sentence the reference to "§ 301.6231(a)(3)-1T(a)(1)(i)" is corrected to read "§ 301.6231(a) (3)-1(a)(1)(i)".

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87–6329 Filed 3–23–87; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket No. 85–231; FCC 87–75]

Non-Licensed Operation of Perimeter Protection Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts rules under Part 15 of Title 47 of the Code of Federal Regulations for the non-licensed operation of perimeter protection systems in the 54–72 and 76–88 MHz bands. This action is intended to provide manufacturers of perimeter protection systems with more design flexibility without increasing the risk of interference to authorized telecommunication services.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

EFFECTIVE DATE: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Technical Standards Branch, Office of Engineering & Technology (202) 653–7316.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, GEN Docket 85–231, FCC 87–75, adopted February 27, 1987, released.

The full text of Commission decisions is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Summary of Report and Order

1. By this action, the Commission establishes provisions under Part 15 of its Rules for the non-licensed operation of perimeter protection systems in the 54–72 and 76–88 MHz bands. This action is taken in response to a petition, filed by Control Data Canada, requesting that perimeter protection systems be allowed to operate in the 54–88 MHz range. Perimeter protection systems are used to

detect the movement of objects or persons around facilities. To date, their operation has been limited to 40.68 MHz. The addition of the two bands of operation will permit manufacturers to design systems that can discriminate between a wider range in sizes of objects or persons. Perimeter protection systems will be certified by the Commission, as marketing prerequisite. Also holders of grants of certification will have to test each installation prior to initial operation and maintain a list of all installations and records of measurements. This information will have to be made available to the Commission upon request.

2. Pursuant to 5 U.S.C. 601 *et seq.*, the following Final Regulatory Flexibility Analysis has been prepared:

I. Need for and Objectives of This Action

The regulations adopted herein are intended to promote new technology in the security and control industry. They provide the industry with more flexibility in designing perimeter protection systems that use relatively low power levels by increasing the number of available operating frequencies in the VHF range of the spectrum.

II. Summaries of Issues Raised by the Public Comments

Comments filed on matters discussed in the initial regulatory flexibility analysis focused on the record-keeping and authorization requirements for perimeter protection systems operating in the 54–72 and 76–88 MHz bands. Parties that filed comments requested that measurement records be kept on each system installation after it has been tested and/or authorized by the Commission. These comments have been incorporated, to the extent possible, in the Commission's proposal. Holders of grants of authorization of perimeter protection systems will be required to test and keep records of each system installation.

III. Entities Affected; Nature of Economic Impact; Significant Alternatives

This Report and Order considers all of the significant alternatives in this proceeding, as well as timely filed comments directed to the various issues in the Notice. After carefully weighing all aspects of this proceeding, the Commission believes, for the reasons set forth herein, that it is adopting the most reasonable course of action under the mandate of the Communications Act of 1934, as amended. The proposal expands Part 15 of the FCC Rules by providing for the operation of perimeter protection systems in the new frequency bands of 54–72 and 76–88 MHz. All manufacturers can benefit from this expansion. The economic burdens that will be imposed upon them do not appear to be significant and are necessary in order to protect the primary users of the spectrum.

3. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to impose new record-keeping requirements as requested by the public in its comments. Implementation of the proposed record-keeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

4. Accordingly, *it is ordered that*, pursuant to section 1, 4(i), 302, and 303 of the Communications Act of 1934, as amended, Part 15 *is amended as* shown below, effective April 27, 1987.

5. *It is further ordered that* perimeter protection systems authorized under the terms of the *order* referenced in footnote 2 above are subject to the rules adopted herein except the certification requirements. *It is also ordered that* the perimeter protection systems operating under the terms of an experimental license (KM2XKV and KM2XKW) are hereby *grandfathered*, subject only to compliance with 47 CFR 15.3 and 15.311.

6. *It is ordered that* this proceeding *is terminated.*

List of Subjects in 47 CFR Part 15

Communications equipment; Reporting and recordkeeping requirements.

Part 15 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

2. Section 15.4 is amended by revising paragraph (j)(2) to read as follows:

§ 15.4 Definitions.

* * * * *

(j) * * *

(2) A perimeter protection system is a field disturbance sensor that uses leaky cables buried below ground level and installed so as to detect any movement within the protected area. Use is limited to industrial, business and commercial applications.

* * * * *

3. The authority citation for Subpart F continues to read as follows:

Authority: Secs. 4, 302, 303, 48 Stat., as amended, and 82 Stat., 1066, 290, 1082; 47 U.S.C. 154, 302, 303, unless otherwise noted.

4. Section 15.305(d) is revised to read as follows:

§ 15.305 General technical specifications.

* * * * *

(d) Alternative to paragraph (a) of this section a perimeter protection system may operate in the 40.66–40.70, 54–72 and 76–88 MHz bands subject to the technical and administrative requirements in §§ 15.310 and 15.312 of this part.

5. Section 15.310 is revised to read as follows:

§ 15.310 Technical requirements for a perimeter protection system.

(a) A perimeter protection system may operate in the 40.66–40.70, 54–72 and 76–88 MHz bands.

(b) The field strength of the radiated emission from any part of the system shall not exceed the following limits when measured in accordance with the applicable procedures in § 15.324 of this part:

(1) For systems operating in the 40.66–40.70 MHz band, the field strength on the fundamental carrier frequency (40.68 MHz) and on frequencies less than 20 kHz removed shall not exceed 50 uV/m at a distance of 30 meters. Emissions 20 kHz or more removed from the carrier frequency shall not exceed 5 uV/m at 30 meters.

(2) For systems operating in the 54–72 and 76–88 MHz bands, the field strength level shall not exceed 10 uV/m at 30 meters within these bands specified. Outside these bands, the field strength on any frequency shall not exceed 5 uV/m at 30 meters.

(c) For a perimeter protection system designed to be connected to a low voltage public utility power line, the conducted voltage fed back into the power line shall not exceed 250 uV over the frequency range from 450 kHz to 30 MHz when measured in accordance with the procedure specified in FCC Measurement Procedure MP–4 entitled, "FCC Methods of Measurements of Radio Noise Emissions From Computing Devices."

6. Section 15.312 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 15.312 Authorization required.

* * * * *

(b) For a perimeter protection system operating at frequencies other than 54–72 or 76–88 MHz, each application for certification must be accompanied by a statement indicating that the system has been tested at three installations and found to comply. Until such time as certification is granted, a given installation of a system will be considered to be in compliance with the requirements of this part if tests at that installation show the system to be in compliance with the relevant technical requirements. Upon receipt of a grant of certification, further testing of the same or similar type of system or installation is not required.

(c) For a perimeter protection system operating in the bands 54–72 or 76–88 MHz, the holder of the grant of certification must test each installation prior to initial operation to verify compliance with the technical standards, and must maintain a list of all installations and records of measurements. This information must be made available to the Commission upon request.

7. Section 15.324 is amended by revising paragraphs (b) and (c), removing paragraph (d) and redesignating paragraph (e) as (d), and adding a new paragraph (e) to read as follows:

§ 15.324 Measurement requirements for a perimeter protection system.

* * * * *

(b) Emissions from the system shall be measured with a spectrum analyzer, raido noise meter, or other appropriate instrument. The 6 dB bandwidth of the instrument shall not be less than:

—200 Hz below 150 kHz.
—9 kHz from 150 kHz to 30 MHz.
—100 kHz from 30 to 1000 MHz.
—1 MHz above 1000 MHz.

An average detector shall be used for systems operating on 40.68 MHz, and a CISPR quasi-peak detector shall be used for systems operating in the 54–72 and 76–78 MHz bands.

(c) Measurements of the bandwidth, and field strength shall be made at the transmitter and each repeater. Measurements shall also be made at least at 4 locations along the cable no more than 60 meters apart; for systems over 1.8 kilometers in length, measurements at least at 30 locations along the cable may be made as an alternative. Generally, these locations should be as equally spaced as possible. The fundamental operating frequency, associated harmonics and spurious emissions within 30 dB of the level of the fundamental carrier shall be recorded. For measurement of radiated emissions, the antenna shall be varied in height and rotated for the measurement of horizontally or vertically polarized waves to obtain the maximum radiated emission at each frequency.

(d) * * *

(e) For supplemental information consult:

(1) American National Standards Institute Specifications for Electromagnetic-Interference and Field Strength Instrumentation, 10 kHz to 10 GHz, ANSI C63.2 (1980).

(2) FCC Measurement Procedure MP–4, "FCC Methods of Measurements of Radio Noise Emissions from Computing Devices" on the alternative use of peak detectors.

(3) FCC Measurement Procedure MP–1, "FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarms Devices and Associated Receivers" on average measurements.

(4) FCC Measurement Procedure MP–5, "Methods of Measurements of Radio Noise Emissions from ISM Equipment" for information on the type of antennas to use and recommended height variations.

William J. Tricarico,

Secretary,

[FR Doc. 87–6246 Filed 3–23–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No.86–244; RM–5269]

Radio Broadcasting Services; Brooklyn, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 287A to Brooklyn, Michigan, as that community's first broadcast service, in response to a petition filed by Cascades Broadcasting, Inc. A site restriction has been imposed 10.3 kilometers (6.4 miles) southwest of the community. Canadian concurrence has been obtained for the allotment of Channel 287A at Brooklyn, Michigan.

EFFECTIVE DATE: April 30, 1987. The window period for filing applications will open on May 1, 1987, and close on June 1, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–244, adopted February 10, 1987, and released March 18, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73 202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Michigan, by adding Channel 287A to Brooklyn.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–6247 Filed 3–23–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–260; RM–5257]

Radio Broadcasting Services; Virginia, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 260C1 to Virginia, Minnesota, and modifies the license of Station WHLB, Channel 296A, to specify operation on Channel 260C1. This action is taken in response to a petition filed by Virginia Broadcasting Company, licensee of Station WHLB. Comments were filed by the petitioner. No other comments were received. Canadian concurrence has been obtained for the allocation of Channel 260C1 at Virginia, Minnesota. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–260, adopted February 10, 1987, and released March 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets

Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended by revising the entry of Virginia, Minnesota, to delete Channel 296A and add Channel 260C1.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–6248 Filed 3–23–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–251; RM–5044]

Radio Broadcasting Services; Ellisville, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 273C2 to Ellisville, Mississippi, and modifies the license of Station WBSJ(FM) to specify operation on Channel 273C2 instead of Channel 272A. The channel is also being reallocated to Ellisville, Mississippi, from Laurel, Mississippi, to reflect actual usage. This action is taken in response to a petition filed by South Jones Broadcasters, Inc., licensee of Station WBSJ(FM). With this action, this proceeding is terminated.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–251, adopted February 20, 1987, and released March 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended, under Mississippi, by adding Channel 273C2 to Ellisville and deleting Channel 272A at Laurel.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–6249 Filed 3–23–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–242; RM–5279]

Radio Broadcastng Services; Gainsville, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 259C2 to Gainsville, Missouri, in response to a petition filed by D.J. Burnett. The allocation could provide Gainsville with its first FM broadcast service. With this action this proceeding is terminated.

EFFECTIVE DATE: April 30, 1987; The window period for filing applications will open on May 1, 1987, and close on May 18, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–242, adopted February 10, 1987, and released March 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, the Table of FM Allotments is amended, under Missouri, by adding Channel 259C2 to Gainsville.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–6250 Filed 3–23–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–231; RM–5293]

Radio Broadcasting Services; Rocky Mount, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 260A to Rocky Mount, Virginia, as that community's first FM service, at the request of WNLB Radio, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 30, 1987; The window period for filing applications will open on May 1, 1987, and close on June 1, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–238, adopted February 10, 1987 and released March 18, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, in the entry for Rocky Mount, Virginia, Channel 260A is added.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-6251 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

48 CFR Part PHS 352

Acquisition Regulation Concerning Human Subjects and Live Vertebrate Animals

AGENCY: Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: HHS is amending the PHS Acquisition Regulation (PHSAR), Appendix A to the Department of Health and Human Services Acquisition Regulation (HHSAR), Chapter 3 of Title 48, Code of Federal Regulations, to revise two clauses: "Protection of Human Subjects" and "Care of Live Vertebrate Animals."

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Charleen Kelly (Procurement Analyst), (301) 443-2710.

SUPPLEMENTARY INFORMATION: The proposed rule to amend two clauses entitled "Protection of Human Subjects" and "Care of Live Vertebrate Animals" was published in the **Federal Register** on December 17, 1986 (51 FR 45140-45141), with a comment period of 45 days ending February 2, 1987. No comments were received. Therefore, the amendments are adopted as originally published.

The amendments add a paragraph to each referenced clause specifying that, upon a contracting officer's determination that a contractor is not in compliance with the requirements and/or standards specified in each clause, the Government has the right to immediately suspend work and further payments under the contract until the noncompliance is corrected. If the noncompliance remains uncorrected, the Government has the right to terminate the contract.

The Department of Health and Human Services certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*); therefore, no regulatory flexibility analysis has been prepared. This final rule does not contain information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Part PHS 352

Government procurement.

Accordingly, the Department of Health and Human Services amends 48 CFR Chapter 3, Appendix A, as set forth below.

Dated: March 16, 1987.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Appendix A to Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown.

PART PHS 352—[AMENDED]

1. The authority citation for Part PHS 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2. In section PHS 352.280-1(b), the contract clause is amended by adding paragraph (c) as follows, and revising the date in the heading of the clause to read "(OCT 1986)":

PHS 352.280-1 Protection of human subjects.

* * * * *

(c) If at any time during performance of this contract, the Contracting Officer determines, in consultation with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), that the Contractor is not in compliance with any of the requirements and/or standards stated in paragraphs (a) and (b), above, the Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract until the Contractor corrects such noncompliance. Notice of the suspension may be communicated by telephone and confirmed in writing. If the Contractor fails to complete the corrective action within the period of time designated in the Contracting Officer's written notice of suspension, the Contracting Officer may, in consultation with OPRR, NIH, terminate this contract in whole or in part, and the Contractor's name may be removed from the list of those Contractors with approved Department of Health and Human Services Human Subject Assurances.

* * * * *

3. In section PHS 352.280-2(b), the contract clause is amended by adding paragraph (d) after paragraph (c) and before the **Note.** as follows, and revising the date in the heading of the clause to read "(OCT 1986)":

PHS 352.280-2 Care of laboratory animals.

* * * * *

(d) If at any time during performance of this contract, the Contracting Officer determines, in consultation with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), that the Contractor is not in compliance with any of the requirements and/or standards stated in paragraphs (a) and (c), above, the Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract until the Contractor corrects such noncompliance. Notice of the suspension may be communicated by telephone and confirmed in writing. If the Contractor fails to complete corrective action within the period of time designated in the Contracing Officer's written notice of suspension, the Contracting Officer may, in consultation with OPRR, NIH, terminate this contract in whole or in part, and the Contractor's name may be removed from the list of those Contractors with approved Public Health Service Animal Welfare Assurances.

* * * * *

[FR Doc. 87-6341 Filed 3-23-87; 8:45 am]

BILLING CODE 4160-17-M

Proposed Rules

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 422

[Amdt. No. 2; Doc. No. 4110S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and succeeding crop years, to change the cancellation, termination for indebtedness, and end of insurance period dates for certain counties in Texas. The intended effect of this rule is to correctly reflect the normal harvest period for such counties and to correct an inequity in the insurance coverage. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions of this rule must be submitted not later than April 23, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1990.

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

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

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

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

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

On Tuesday, February 18, 1986, FCIC published a final rule in the **Federal Register** at 51 FR 5689, revising and reissuing the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and succeeding crop years. These regulations list the date for the end of the insurance period in Texas as July 15.

On October 9, 1986, the FCIC Board of Directors approved expansion of the potato crop insurance program into certain Texas counties beginning with the 1987 crop year. The July 15 end-of-insurance-period date currently in effect for the State of Texas is approximately 3 months before the normal harvest period in all but one of these newly approved counties. Insurance protection would therefore not be provided for a significant part of the normal risk period thus necessitating a change in the end-of-insurance date.

FCIC has determined that it is also necessary to change the cancellation and termination for indebtedness dates for these counties to coincide with the more important insurance period change.

The Texas counties approved by the Board of Directors, and the proposed dates are as follows:

County	Cancellation/ termination	End of insurance period
Knox	2/28/87	8/15/87
Bailey	4/15/87	10/15/87
Castro	4/15/87	10/15/87
Dallam	4/15/87	10/15/87
Deaf Smith	4/15/87	10/15/87
Floyd	4/15/87	10/15/87
Gaines	4/15/87	10/15/87
Hale	4/15/87	10/15/87
Hartley	4/15/87	10/15/87
Lamb	4/15/87	10/15/87
Parmer	4/15/87	10/15/87

For the purpose of potato crop insurance in Knox County, Texas, the cancellation date and termination date (February 28, 1987) are waived for the 1987 crop year only because there are no current policies of crop insurance which may be cancelled or terminated.

FCIC is soliciting comments on this proposed rule for 30 days after its publication in the **Federal Register.** Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC. 20250.

Written comments received pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 422

Crop insurance; Potatoes.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.),* the Federal Crop Insurance Corporation hereby proposes to amend the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and

succeeding crop years in the following instances:

PART 422—[AMENDED]

1. The authority citation for 7 CFR Parts 422, continues to read as follows:

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

2. In § 422.7(d), the Potato Crop Insurance Policy is amended by revising subsections 7.b. and 15.c. to read as follows:

§ 422.7 The application and policy.

* * * * *

(d) * * *

Potato Crop Insurance Policy

7. * * *

b. Insurance ends at the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss;

(4) The following dates of the calendar year in which the potatoes are normally harvested:

(a) Missouri and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Knox, Lamb, and Parmer—July 15;

(b) North Carolina—July 25;

(c) Delaware, Maryland, New Jersey, Virginia, and Knox County, Texas—August 15;

(d) Alaska—October 1;

(e) Nebraska and Wyoming—October 10;

(f) Connecticut, Massachusetts, Nevada, New York and Pennsylvania—October 31;

(g) Idaho, Maine, Oregon, and Washington (Russett type only)—October 31;

(h) Idaho, Maine, Oregon, and Washington for all other types—October 15;

(i) Alabama, California, and Florida, the dates established by the actuarial table for each planting period; and

(j) Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer Counties, Texas, and all other states—October 15.

* * * * *

15. * * *

e. The cancellation and termination dates are:

State and County	Cancellation and termination dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida, and all Florida counties lying south thereof.	September 30.
Contra Costa, San Joaquin, Calaveras, and Alpine Counties, California, and all California counties lying south thereof, and all Texas counties (except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Knox, Lamb, and Parmer).	November 30.
Alabama, Delaware, Maryland, Missouri, New Jersey, North Carolina, Virginia, and all other Florida counties.	December 31.
Knox County, Texas (effective beginning with the 1988 crop year).	February 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer counties, Texas, all other California counties and all other States.	April 15.

Done in Washington, DC, on February 11, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–6378 Filed 3–23–87; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Stabilization and Conservation Service

7 CFR Part 795

Payment Limitation

AGENCY: Commodity Credit Corporation and Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 7 CFR Part 795 to provide that an individual shall not be denied status as a separate person solely on the basis that a family member: (1) Cosigns for, or makes a loan to, the individual, and (2) leases, loans or gives the individual equipment, land or labor if the individual and the family member were organized as separate units prior to December 31, 1985. This proposed rule also would provide that a cooperative association of producers that markets commodities for producers would not be considered to be a "person" with respect to the commodities so marketed.

DATE: Written comments must be received not later than April 23, 1987, to be assured of consideration.

ADDRESS: Comments on this proposed rule must be submitted to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Branch Chief, Cotton, Grain, and Rice Price Support Division, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447–4696.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on 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 geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055, Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Number 0560–0096 has been assigned.

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

Background

Section 636 of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Pub. L. 99–500 and Pub. L. 99–591, provides as follows: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985. The statute does not, however, define the terms "family member" and "separate

unit." However, to be consistent with the position previously taken in making determinations under this Part with respect to separate person status, it has been determined that the term "family member" should be defined to include the lineal ancestors and descendants of an individual and should not include the brother or sister of an individual. Accordingly, this proposed rule would amend 7 CFR 795.3 to define a "family member" to include the individual and the great-grandparent, grandparent, parent, child, grandchild, and great-grandchild of such individual and the spouses of all such individuals. Also, to be consistent with previous determinations made under this part, this proposed rule would amend § 795.3 to define the term "separate unit" to mean an individual who, prior to December 31, 1985, had been determined, in accordance with the provisions of this part, to be a separate "person" from other individuals or entities and had been engaged in a separate farming operation.

In accordance with this proposed rule, a father and a son who were separate "persons" engaged in separate farming operations prior to December 31, 1985, may, for example, cosign farm operating loans and not be considered to be one "person" solely on the basis of the cosigned loan. Such "persons", however, would be required to comply with all other provisions of 7 CFR Part 795 in order to obtain separate "person" determinations.

In accordance with section 12 of the CCC Charter Act, as amended, CCC "may, in the conduct of its business, utilize on a contract or fee basis, committees or associations of producers, producer-owned and producer-controlled cooperative association, and trade facilities." In order to provide price support to producers of eligible commodities who are members of approved cooperatives, CCC previously has executed agreement with such cooperatives that provide the cooperative may pledge eligible commodities as collateral for price support loans. Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) was amended by Pub. L. 99-500 and Pub. L. 99-591 to provide that the regulations governing the application of the maximum payment limitation shall provide "that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."

Accordingly, this proposed rule would amend § 795.3 to provide that the extent a cooperative association of producers markets commodities for producers these activities would not result in the determination that a cooperative is a "person" for purposes of 7 CFR Part 795. However, each member of the cooperative association of producers would remain subject to the maximum payment limitation provisions and, to the extent a cooperative association of producers engages in other activities, the cooperative association could be considered to be a "person" for the purposes of 7 CFR Part 795.

List of Subjects in 7 CFR Part 795

Production adjustment programs, Grant programs.

PART 795—[AMENDED]

Accordingly, it is proposed to amend 7 CFR Part 795 as follows:

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

Authority: Sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444, as amended, 7 U.S.C. 1308; Pub. L. 99-500 and Pub. L. 99-591.

2. Section 795.3 is revised to read as follows:

§ 795.3 Definitions.

(a) The terms defined in Part 719 of this chapter, as amended, governing reconstitutions of farms shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b)(1) Subject to the provisions of this part, the term "person" shall mean an individual, joint stock company, corporation, association, trust, estate, or other legal entity. In order to be considered to be a separate person for the purposes of this part with respect to any crop, in addition to any other provision of this part, an individual or other legal entity must:

(i) Have a separate and distinct interest in the crop or the land on which the crop is produced;

(ii) Exercise separate responsibility for such interest; and

(iii) Be responsible to pay the cost of farming related to such interest from a fund or account separate from that of any other individual or entity.

(2) The term "person" shall not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

(c) The term "family member" shall mean the individual, the great-grandparent, grandparent, parent, child, grandchild, and great-grandchild of such individual and the spouses of all such individuals.

(d) The term "separate unit" shall mean an individual who, prior to December 31, 1985, has been engaged in a separate farming operation and, in accordance with the provisions of this Part, had been determined to be a separate person.

3. Section 795.4 is revised to read as follows:

§ 795.4 Family members.

Effective for the 1987 through 1990 crops, an individual shall not be denied a determination that such individual was a "person" solely on the basis that a family member cosigns for, or makes a loan to, such individual and leases, loans, or gives such individual equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.

4. The following headings within the Table of Contents and text of Part 795 are deleted: "General"; "Definition"; "Determination Whether Multiple Individuals or Other Entities Constitute One or Separate Persons"; "Farming Operations"; "Scheme or Device"; and "Miscellaneous".

Signed at Washington, DC, on March 17, 1987.

Milt Hertz,

Executive Vice President, Commodity Credit Corporation and Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87-6110 Filed 3-23-87; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Inspection Service

9 CFR Part 319

[Docket No. 85-009E-2]

Standards for Frankfurters and Similar Cooked Sausages; Extension of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 24, 1986, the Food Safety and Inspection Service (FSIS) published a proposed rule to amend the Federal meat inspection regulations regarding the standard of identity for frankfurters and similar cooked sausages (9 CFR 319.180) and cheesefurters and similar products (9 CFR 319.181), to provide for a maximum combination of 40 percent fat and added

water in those products and to continue restricting the maximum fat content to no more than 30 percent of the finished products. FSIS received a request to extend the comment period to allow more time for reviewing and gathering information on the proposal, and therefore, on January 22, 1987, published a notice to extend the comment period an additional 60 days. Interested persons were given until March 24, 1987, to submit their comments.

FSIS has received another request to extend the comment period to allow additional time to file comments.

DATE: Comments must be received on or before June 22, 1987.

ADDRESS: Written comments to: Policy Office, ATTN: Linda Carey, FSIS Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington DC 20250.

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, 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On November 24, 1986, FSIS published in the **Federal Register** (51 FR 42239) a proposed rule to amend sections 319.180 and 319.181 of the Federal meat inspection regulations regarding the water and fat content of frankfurters and similar cooked sausages. For at least 30 years, the Federal meat inspection regulations have required that cooked sausages contain no more than 10 percent added water nor more than 30 percent fat. Under the proposed revision to the standard, the amount of added water could be increased above that traditional 10 percent limit, but only if the amount of fat decreases by the same amount; that is, added water may replace fat (but not protein). The limitation on fat content would remain unchanged at 30 percent, and fat and added water together could not exceed 40 percent of the product.

Interested person were given until March 24, 1987, to submit their comments on the proposed rule which was extended on January 22, 1987 (52 FR 2416).

FSIS has received another request to extend the comment period to allow additional time to submit comments. FSIS is interested in receiving additional data on this proposal and is, therefore, extending the comment period for an additional 90 days, to June 22, 1987.

Done at Washington, DC, on: March 19, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-6379 Filed 3-23-87; 8:45 am]

BILLING CODE 3410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y: Docket No. R-0567]

Capital Maintenance; Revision to Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: On January 24, 1986, the Board proposed to amend its Guidelines for minimum and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System (contained in Appendix A to the Board's Regulation Y, 12 CFR Part 225) by adding a supplemental adjusted capital measure that the Board would consider in tandem with existing ratios of capital to total assets. On February 12, 1987, the Board announced that it was requesting comment on a revised version of its January 24, 1986 proposal, based, in part, on comments received by the Board on that earlier proposal and on extensive discussions with other federal banking agencies and the Bank of England that resulted in a joint U.S/U.K. proposal on primary capital and the assessment of capital adequacy. The Board's February 12, 1987 proposal included a risk-based capital measure (also known as a risk asset ratio) to be used in tandem with existing capital ratios. The revised proposal indicated that United States and United Kingdom authorities were committed to incorporating in the risk-based capital measure at the earliest possible date credit risks resulting from interest rate swaps, forward foreign exchange contracts, and similar off-balance sheet interest rate and exchange rate contracts. The Board, in conjunction with the Bank of England, has now proposed specific procedures for incorporating these credit risks into its risk-based capital measure, and is seeking comment on these procedures. The text of the agreed proposal, which also has been issued for public comment in the United Kingdom by the Bank of England, is attached to this Federal Register Notice.

The Board's proposed method for incorporating credit risks from interest rate and exchange rate contracts in the risk-based capital measure is designed to be consistent with the treatment of other off-balance sheet credit risks in the previous agreement between the U.S. banking agencies and the Bank of England. Thus, the Board's proposal provides that principal amounts of such off-balance sheet items must be converted into on-balance sheet "credit equivalent" amounts before they can be assigned to the risk categories in the risk-based capital measure previously proposed for comment. The core of the current proposal is a methodology for calculating such credit equivalent amounts for interest rate and exchange rate contracts. The proposed credit equivalent amounts would be assigned to risk categories in the same way as balance sheet assets, that is, based on broad distinctions among types of obligors (counterparties) and, in some cases, the remaining maturity of the instrument and qualifying collateral.

The Board's proposal takes into account only the credit risks associated with interest rate and exchange rate contracts. The proposal does not address interest rate risk or exchange rate risk. Thus, the Board's proposed risk-based capital measure, as amended by this proposal, continues to be focused primarily on credit risk. The current proposal represents an effort to address explicitly the major categories of off-balance sheet exposures that have grown rapidly in recent years, and to continue the process of coordinating with regulatory authorities of other countries to establish appropriate capital standards, in accordance with the International Lending Supervision Act of 1983 ("ILSA"), 12 U.S.C. 3901 et seq.

DATE: Comments must be received by May 22, 1987.

ADDRESS: All comments should refer to Docket No. R-0567, and should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or should be delivered to the Office of the Secretary, Room 2223, Eccles Building, 20th Street and Constitution Avenue, NW., between the hours of 9:00 a.m. and 5:00 p.m. weekdays. Comments may be inspected in Room 1119, Eccles Building, between 9:00 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Patrick Parkinson, Manager, (202/452-3023), or Richard Spillenkothen, Deputy Associate Director (202/452-2594), Division of Banking Supervision and Regulation, Board of Governors; or James E. Scott, Senior Counsel (202/452-

3513), Legal Division, Board of Governors; or Betsy White, Assistant Vice President (212/720–5874), or Andrew Spindler, Vice President (212/720–5846), Federal Reserve Bank of New York. For the hearing-impaired *only*, Telecommunication Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452–3544), Board of Governors.

SUPPLEMENTARY INFORMATION:

Background: The Purpose of the Proposed Risk-Based Measure

On January 24, 1986, the Board proposed to amend its Guidelines for minimum and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System (contained in Appendix A to the Board's Regulation Y, 12 CFR Part 225) by adding a supplemental adjusted capital measure that the Board would consider in tandem with existing ratios of capital to total assets in assessing capital adequacy.

The Board's proposal of January 24, 1986 was in part an effort to meet the Board's previous concern, expressed in the Board's revised Capital Adequacy Guidelines of April 1985 (50 FR 16057), that the emphasis in the Guidelines on ratios based on the amount of a banking organization's total assets should not be interpreted to exclude considerations of risk. The Board had stated that it would assess the overall capital position of a banking organization by taking into account both the volume of an organization's assets exposed to risk and the volume and nature of its off-balance sheet risks.

On February 12, 1987, the Board proposed for public comment a revised proposal based, in part, on comments received by the Board on its January 24, 1986 proposal, and on a proposed agreement with the other federal banking agencies and the Bank of England (the "proposed U.S./U.K. agreement"). The Board's February I2, 1987 proposal included a risk-based capital measure (also known as a risk asset ratio) to be used in tandem with existing capital ratios. The proposed risk-based measure would be calculated as a ratio of primary capital to weighted risk assets. This proposal would establish weights to be assigned to principal amounts of assets and certain off-balance sheet items. The risk weights for off-balance sheet obligations would be determined using a two-step process. First, the face amount of such an obligation would be translated into an on-balance sheet "credit equivalent amount." Second, the resulting credit equivalent amount would be assigned to one of the five risk categories used for on-balance sheet assets, based upon the type of obligor and, in some cases, the remaining maturity of the off-balance sheet item and qualifying collateral support.

The February 12, 1987 proposal indicated that United States and United Kingdom banking authorities were committed to incorporating in the risk-based capital measure at the earliest possible date credit risks resulting from interest rate swaps, forward foreign exchange contracts, and similar off-balance sheet interest rate and exchange rate contracts. The Board, in conjunction with the Bank of England, now proposes specific procedures for incorporating credit risks from such contracts into its revised risk-based capital measure, and is seeking comment concerning these proposed procedures.

The Board believes that its proposal to incorpcrate credit risks from interest rate and exchange rate contracts into its proposed risk-based capital measure would significantly enhance the usefulness of this measure as a tool for relating minimum capital requirements to the risk profiles of banking organizations. In particular, this proposal would further two of the Board's specific policy objectives set forth in its. January 1986 proposal, namely, to address the rapid expansion of off-balance sheet exposures and to move capital adequacy policies in the United States more closely in line with those of other major industrial countries. With regard to the latter objective, the Board notes that this proposal has been issued for public comment in the United Kingdom by the Bank of England and that the basic methodology underlying this proposal has been developed jointly by representatives of the Bank of England, the Office of the Comptroller of the Currency ("OCC"), and the Federal Reserve. The OCC and the Federal Deposit Insurance Corporation ("FDIC") have not acted on this proposal. The OCC staff has indicated to Federal Reserve staff that the OCC does not intend to issue a separate proposal for public comment, but that it will review the comments received in response to the Board's proposal.

Proposed Credit Equivalent Amounts

Risk Analysis

The cost to a banking organization of a counterparty default on an interest rate or exchange rate contract is the cost of replacing the cash flows specified by the contract. At the time a contract is initiated, it can be replaced virtually costlessly, since the interest rates or exchange rates embodied in the contract reflect those prevailing in the market. But as time passes and market rates change, the market value of the cash flows that the banking organization is entitled to receive under the contract terms often will exceed the market value of the cash flows it is obligated to pay. If the counterparty were to default in such circumstances, the banking organization would have to pay a premium to replace, or re-establish, the cash flows specified by the original contract.

For example, suppose a banking organization enters into a U.S. dollar-denominated fixed/floating interest rate swap with a face amount (notional principal amount) of $10 million and an original maturity of 7 years. Under the contract the banking organization agrees to make semi-annual floating interest payments based on the prevailing six-month London interbank offered rate (LIBOR) in exchange for semi-annual fixed interest payments of 9 percent per annum. Both the fixed and floating payments would be calculated on the basis of a $10 million principal amount (the notional value), but no actual exchange of principal would occur. At the time the contract is initiated, it could be replaced costlessly by entering into an identical swap with a second counterparty at the prevailing 9 percent coupon rate. But one year later, market interest rates could have fallen considerably, implying substantial replacement costs. For example, if the prevailing coupon rate for a U.S. dollar fixed/floating interest rate swap for 6 years (the remaining maturity of the original swap) were then 7 percent, the banking organization would have to pay nearly $1 million to replace the original net payment stream of 9 percent less LIBOR.

A fundamental premise underlying the treatment of off-balance sheet credit risks in the proposed U.S./U.K. agreement and the Board's February 12, 1987 risk-based capital proposal is that capital support is required not only for current exposure to losses, but also for potential future exposure (potential exposure) to losses. This premise underlies the treatment of all off-balance sheet credit risks covered by the overall framework, but is most evident in the treatment of loan commitments. Capital support is required for both the principal amount of loans extended under the commitment (the current exposure) and a portion of the unused principal amount of the commitment (the potential exposure).

Accordingly, in this proposal the credit equivalent amount, to be

incorporated into the proposed U.S./U.K. risk-based capital ratio, of an interest rate or exchange rate contract would be calculated as the sum of the current replacement cost and a measure of potential future increases in replacement costs. The current replacement cost would be measured by the mark-to-market value (positive or negative) of the contract.[1] Potential future increases in replacement costs would be calculated using credit conversion factors that are based on statistical analyses by the staffs of the Bank of England, the Office of the Comptroller of the Currency, and the Federal Reserve.[2]

These credit conversion factors for potential future increases in replacement costs were derived by estimating the potential volatility of interest rates and exchange rates and analyzing the implications of movements in these rates for the replacement costs of various interest rate and exchange rate contracts. This analysis produced probability distributions of potential replacement costs over the remaining life of matched pairs of such contracts.[3] Potential future exposure was then defined in terms of confidence limits for (or percentiles of) these distributions. This analysis suggests that credit conversion factors for potential exposure should lie within the ranges shown in the attached Table 1. The conversion factors at the lower ends of the ranges shown in Table 1 generally correspond to confidence limits of 65 to 85 percent, while conversion factors at the upper ends of the ranges generally correspond to confidence limits of 90 to 95 percent. As discussed in greater detail below, the Board will carefully evaluate public comments on the competitive implications of these proposed conversion factors before reaching final decisions on the appropriate factors.

TABLE 1.—POTENTIAL CREDIT EXPOSURE, PROPOSED CONVERSION FACTORS,[1] INTEREST RATE AND FOREIGN EXCHANGE RATE CONTRACTS

[Percentage of notional principal amount]

Remaining maturity	Interest rate [2] contracts	Exchange rate [3] contracts (percent)
Less than one year:		
Less than three days	0	0
Three days to one month	0	1–2
One month to three months	0	2–4
Three months to one year	0	4–8
One year or longer	([4])	([5])

[1] The authorities will carefully review these proposed credit conversion factors in light of public comments on the implications fo pricing and competition.

[2] Interest rate contracts include single-currency interest rate swaps forward rate agreements, interest rate options purchased (except thos purchased on exchanges), and similar instruments. However, no potential credit exposure would be calculated for single-currency floating/floating interest rate swaps; the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

[3] Exchange rate contracts include cross-currency interest rate swaps, forward foreign exchange contracts, and foreign exchange options purchased (except those purchased on exchanges), and similar instruments.

[4] (½ to 1 pct.) per complete year remaining to maturity.

[5] (5 to 10 pct.)+(1 to 2 pct.) per complete year remaining to maturity.

Potential exposure on a contract would be determined by multiplying the notional principal amount by the proposed credit conversion factor.[4] The credit equivalent amount for a contract would then be obtained by adding the potential exposure estimate to the current mark-to-market value.[5] The resulting credit equivalent amount then would be slotted into one of the risk categories in the risk asset ratio based on the identity of the counterparty to the interest rate or exchange rate contract, and in some cases on the maturity of the contract or the presence of certain collateral or guarantees, as described in the Board's February 12, 1987 proposal. Table 2 provides examples of the calculation of credit equivalent amounts for several types of interest rate and exchange rate contracts.[6]

TABLE 2.—CALCULATION OF CREDIT EQUIVALENT AMOUNTS, INTEREST RATE AND FOREIGN EXCHANGE RATE RELATED TRANSACTIONS

Type of contract (remaining maturity)	Notional principal (dollars) (1)	×	Potential exposure conversion factor [1] (2)	=	Potential exposure (dollars) (3)	+	Current exposure (dollars) [2] (4)	=	Credit equivalent (dollars) (5)
(1) 120-day forward foreign exchange	5,000,000		0.4		200,000		100,000		300,000
(2) 120-day forward foreign exchange	6,000,000		.04		240,000		−120,000		120,000
(3) 3-year single-current fixed/floating interest rate swap	10,000,000		.015		150,000		200,000		350,000
(4) 3-year single-currency fixed/floating interest rate swap	10,000,000		.015		150,000		−250,000		0
(5) 7-year cross-currency floating/floating interest rate swap	20,000,000		.12		2,400,000		−1,300,000		1,100,000

[1] The mark-to-market value is the present value of the net payment stream specified by the contract, calculated on the basis of current market interest rates and exchange rates. Negative mark-to-market values are taken into account in the calculation of credit equivalent amounts not because a banking organization could benefit from a default, but because negative current exposure implies less potential future exposure. Mark-to-market values would include the value of interest that has accrued but has not been received.

[2] The methodology upon which the statistical analyses are based is described in detail in a .echnical working paper entitled "Potential Credit Exposure on Interest Rate and Foreign Exchange Rate Related Instruments." This paper is available upon request from the Board's Freedom of Information Office (202/452-3684).

[3] A matched pair is a pair of contracts with identical terms, with the banking organization the buyer of one of the contracts and the seller of the other. The Board believes that estimates based on matched pairs provide a more accurate representation of credit exposure on a portfolio of interest rate and exchange rate contracts than estimates based on single contracts. Because banking organizations often act as intermediaries between end-users of contracts, a large share of their portfolio often consists of matched—or nearly matched—pairs.

[4] The notional principal amount, or value, is a reference amount of money used to calculate interest payment streams. Principal amounts generally are not exchanged in single-currency interest rate swaps, but generally are exchanged in foreign exchange contracts (including cross-currency interest rate swaps).

[5] If this sum is negative, the credit equivalent amount would be set equal to zero, because a banking organization would not necessarily profit from the bankruptcy of a counterparty.

[6] For illustrative purposes only, these examples use the credit conversion factors at the lower ends of the ranges shown in Table 1.

TABLE 2.—CALCULATION OF CREDIT EQUIVALENT AMOUNTS, INTEREST RATE AND FOREIGN EXCHANGE RATE RELATED TRANSACTIONS—Continued

Type of contract (remaining maturity)	Notional principal (dollars)	×	Potential exposure conversion factor [1]	=	Potential exposure (dollars)	+	Current exposure (dollars) [2]	=	Credit equivalent (dollars)
	(1)		(2)		(3)		(4)		(5)
Total	51,000,000								1,870,000

[1] For illustrative purposes only, these examples use credit conversion factors at the lower end of the ranges shown in Table 1.
[2] These numbers are purely illustrative.

Any credit conversion factors that the Board initially adopts will need to be re-examined and possibly revised on a periodic basis, perhaps annually. Estimates of potential future credit exposure necessarily rely on estimates of the future volatility of market rates. The proposed approach relies on past rate volatility as a guide to future rate volatility, but future volatility could differ substantially from past volatility.

Instruments Covered by the Board's Proposal

The proposed credit conversion factors for interest rate contracts would apply to single-currency interest rate swaps, forward rate agreements, over-the-counter interest rate options purchased, and similar instruments. The proposed credit conversion factors for foreign exchange contracts would apply to cross-currency swaps (including cross-currency interest rate swaps), forward foreign exchange contracts, over-the-counter foreign currency options purchased, and similar instruments, such as forward gold contracts. No potential future credit exposure would be calculated for interest rate contracts with a remaining maturity of less than a year or for any single-currency floating/floating interest rate swaps (so-called basis swaps). For these contracts, the credit equivalent amount would equal the current exposure or zero, whichever is larger.

Interest rate and foreign exchange contracts, such as futures contracts, that are traded on organized exchanges and are subject to daily marking-to-market and payment of variation margin would be excluded from the coverage of the proposal. Daily payment of variation margin generally limits replacement costs on futures contracts to a very small fraction of the notional principal amounts. Similarly, because the replacement costs arising from spot foreign exchange contracts are estimated to be quite small, such contracts would be excluded from the coverage of the proposal.

Avoidance of Potential Double Counting of Credit Exposures

In some cases, credit exposures arising from interest rate and exchange rate contracts addressed by this proposal may already be reflected in part on a banking organization's balance sheet. In such cases, credit exposures may need to be excluded from balance sheet assets in calculating the banking organization's risk-based capital ratio, in order to avoid double counting. The Board intends to design reporting systems for foreign exchange and interest rate swap contracts that would avoid such possible double counting. For example, for purposes of calculating the risk-based capital measure, current counterparty credit exposures (mark-to-market values) on forward foreign exchange contracts would be excluded from balance sheet assets.

Collateral and Guarantees

The Board's proposal does not recognize the existence of collateral and guarantees in calculating credit equivalent amounts. However, consistent with the Board's February 12, 1987 proposal, the risk weights assigned to credit equivalent amounts of interest rate and exchange rate contracts would be affected by the existence of three types of collateral: Domestic national government debt, cash on deposit in the lending institution, and debt of U.S. government agencies and U.S. government-sponsored agencies. The February 12, 1987 proposal also takes into account guarantees by the U.S. government or its agencies, but not guarantees in the form of privately-issued standby letters of credit.

Netting Arrangements

Market participants have been developing arrangements under which multiple interest rate or foreign exchange rate contracts with the same counterparty could be consolidated within a single master agreement and translated into a single contract with the counterparty. Such arrangements would require amounts receivable from and payable to a counterparty to be netted, resulting in a single stream of payments between counterparties. The Board recognizes that such arrangements may in certain circumstances reduce credit risk and wishes to encourage their further development and implementation. If market participants were to develop such standardized master agreements with general, market-wide application, and if there were unambiguous legal opinions that such agreements reduce credit risk and would be recognized by the relevant judicial authorities, the proposal might be modified to treat multiple contracts with a single counterparty that were created within the terms of such a master agreement as a single net contract.

De Minimis Exception

The Board's proposed agreement with the Bank of England would allow it the discretion to decide whether some classes of banking organizations should be exempted on *de minimis* grounds. For two reasons, the Board believes that coverage by this proposal should be limited strictly through provision of a *de minimis* exception. First, because the risk asset ratio currently does not incorporate measures of interest rate or exchange rate risk, this proposal could discourage the use of interest rate and exchange rate contracts for hedging. To address this concern, a *de minimis* exception could be structured so that banking organizations that use these contracts exclusively for hedging their own interest rate and exchange rate risks generally would be exempted from the proposal. Second, although the Board has attempted to keep this proposal simple, it arguably is more complex than the rest of the risk asset framework. A *de minimis* exception would limit the associated computational and reporting burdens primarily to very large, sophisticated banking organizations that act as intermediaries in the markets for interest rate and exchange rate contracts. These organizations would probably have the least difficulty with

compliance. For those organizations receiving an exemption from the proposal, the credit risks involved in holding interest rate and exchange rate contracts would continue to be assessed during the examination process.

Organizations entitled to the *de minimis* exception would be identified on the basis of the notional principal amounts of interest rate swaps and foreign exchange contracts held by banking organizations on each quarter-end reporting date. Banking organizations whose estimated credit equivalent amounts of interest rate and exchange rate contracts were small relative to their primary capital would be exempted. This screening would be conducted by Federal Reserve staff, and organizations exempted from the proposal would not be sent reporting forms and instructions. Although specific selection criteria have yet to be determined, the alternatives under consideration currently would limit application of this proposal to about 20 U.S. bank holding companies, all of which have total assets exceeding $5 billion, and about 10 state-chartered member banks, all of which have total assets of $5 billion or more or are controlled by a foreign banking organization of such size.

Issues for Further Consideration

Since the issuance of the Board's supplemental adjusted capital proposal on January 24, 1986, the Board has received public comments on the proposal and the concept of a risk-based capital measure in general. In its revised proposal of February 12, 1987, the Board sought comment in a number of specific areas that had not been addressed by the January 24, 1986 proposal or the comments on that proposal. In addition to the Board's request for comments in the areas described in the February 12, 1987 proposal, the Board is now seeking comments in several additional areas specifically related to the incorporation of credit risks stemming from interest rate and exchange rate contracts.

Implications for Pricing and Competition

Current capital adequacy guidelines do not take explicit account of the credit risks associated with interest rate and exchange rate contracts. Thus, this proposal would achieve one of the major objectives of the risk-based capital proposal, that is, to address explicitly the major categories of off-balance sheet exposures that have grown rapidly in recent years. However, the capital support that would be likely to be required by this proposal probably would exceed the levels of capital currently allocated to these activities by many U.S. and U.K. banking organizations. Many market participants recognize the need to provide capital support for current exposure on these contracts and generally accept the mark-to-market value as the appropriate measure of current exposure, but views of market participants differ as to the need for, or the appropriate level of, capital support for potential future exposure. Consequently, the establishment of explicit supervisory capital requirements by U.S. banking regulators and the Bank of England could affect the pricing of interest rate and exchange rate contracts and the competitive position of U.S. and U.K. banking organizations as providers of such contracts.

In developing this proposal, the Board has been sensitive to the implications for pricing and competition. Indeed, the joint development and issuance of this proposal with the Bank of England reflects the recognition of the need to achieve more consistent capital standards for internationally active financial organizations so as to minimize competitive inequities. This proposal is intended to assure adequate capital support for the credit risks inherent in interest rate and exchange rate contracts, without unnecessarily affecting the ability of U.S. banking organizations to price such contracts competitively. The Board recognizes, however, that the determination of adequate capital involves a degree of judgment and that the impact of capital requirements on pricing and competition is difficult to determine with precision.

As noted above, consistency with the proposed U.S./U.K. risk-based capital framework clearly requires that potential future credit exposures on such contracts receive capital support. The overall framework provides little guidance, however, on how large the potential exposure estimates should be. Although the estimates incorporated in this proposal are based on an objective model of the replacement costs of the contracts, the choice of confidence limits that the estimates should satisfy is necessarily subjective.

In light of the uncertainty concerning the market impact of the proposal and the appropriate level of capital support for potential exposure, the Board is seeking specific public comment on the implications of the credit conversion factors for potential exposure under this proposal for the pricing of interest rate and exchange rate contracts and the competitive position of U.S. banking organizations as providers of such contracts. In this regard, how do banking organizations currently factor credit risks into the pricing of interest rate and exchange rate contracts? Is primary capital explicitly allocated to support potential losses on interest rate and exchange rate contracts? If so, what methodologies are used to estimate potential credit exposures and determine the appropriate capital support? Aside from the cost of capital, what other costs do banking organizations attempt to cover in pricing interest rate and exchange rate contracts? What are the magnitudes of these other costs?

The Board intends to review carefully the proposed credit conversion factors in response to the comments received and to make every effort to avoid affecting pricing and competition unnecessarily.

Mark-to-Market Values

The proposal provides that current exposure on a contract would be measured by the mark-to-market value of the contract, that is, the value at current market interest rates and exchange rates of the net payments specified by the contract. Are there widely-accepted procedures for marking-to-market interest rate swaps, forward foreign exchange contracts, and other interest rate and exchange rate contracts? If so, what are the accepted procedures? If divergent practices exist, should the Board establish guidelines for marking-to-market interest rate and exchange rate contracts? If so, what should be the content of such guidelines?

Tradeoff Between Precision and Complexity

The proposed credit conversion factors for potential future credit exposure provide only limited recognition of differences in credit exposures across different types of interest rate and exchange rate contracts. More precise estimates of potential exposure could be achieved by establishing different credit conversion factors for different types of interest rate and exchange rate contracts, but the Board concluded that the resulting increase in precision would not justify the substantial increase in complexity that would result. Of course, this is a matter of judgment, and market participants might be willing to accept greater complexity to achieve greater precision and avoid pricing distortions. In particular, if the use of a *de minimis* exception effectively restricts the application of the proposal to large, sophisticated banking organizations, greater complexity may be acceptable.

Should the Board establish different credit conversion factors for interest rate options purchased, forward rate agreements, and single-currency interest rate swaps? Should different conversion factors be established for exchange rate options purchased, forward foreign exchange contracts, and cross-currency interest rate swaps? Should the currency or currencies to which a contract is indexed be taken into consideration?

Regulatory Flexibility Act Analysis

Implementation of this proposal would impose additional recordkeeping, computational, and reporting burdens on the banking organizations covered by the proposal. The Board believes that these burdens would not be unreasonable. The only data required to calculate the credit equivalent amount of a contract are the notional principal value, the remaining maturity, and the mark-to-market value of the contract. All of this information should be available in well-designed management information systems used to measure and control the credit risks associated with such contracts. The additional calculations that would be required are relatively straightforward; although the largest banking organizations have thousands of these contracts, the calculations could be automated. Finally, the information actually reported could be limited to as few as four items—the aggregate credit equivalent amounts to be slotted in the 10, 25, 50 and 100 percent risk categories.

List of Subjects in 12 CFR Part 225

Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, State member banks.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

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

Authority: 12 U.S.C. 1817(j)(13), 1818, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909.

2. The Board's proposed rulemaking of February 12, 1987, 52 FR 5119, which proposed certain revisions to the Board's Appendix A to Regulation Y, 12 CFR 225 Appendix A, is amended by deleting references in that proposed rulemaking indicating that credit conversion factors for converting certain off-balance sheet items to on-balance sheet credit equivalent amounts were not being established at that time for interest rate swaps and other interest rate and exchange rate contracts. As set forth below, the Board is now proposing a method for converting principal amounts of such interest rate and exchange rate contracts to on-balance sheet credit equivalent amounts. References in the Board's rulemaking of February 12, 1987 to the method by which the face amounts of off-balance sheet items are converted to credit equivalent amounts are amended to apply only to off-balance sheet items other than interest rate and exchange rate contracts. A separate method is specified below for calculation of on-balance sheet credit equivalent amounts of interest rate and exchange rate contracts. Following calculation of the credit equivalent amount of an interest rate or exchange rate contract, such amount is assigned to the appropriate risk category in accordance with the methods specified in the Board's rulemaking of February 12, 1987.

3. The Board's proposed rulemaking of February 12, 1987 is amended to add, following the text of the Board's proposed amendment to Appendix A of Regulation Y, the following language:

"Interest rate and exchange rate contracts are converted to on-balance sheet credit equivalent amounts by the methods described below, and are then incorporated into the risk-based capital measure set forth in the Board's February 12, 1987 proposal in accordance with the methods for such incorporation set forth in that proposal.

The credit equivalent amount of an interest rate or exchange rate contract is calculated as the sum of the current exposure—the mark-to-market value of the contract (positive or negative)—and an estimate of potential future exposure. If this sum is negative, the credit equivalent amount is set equal to zero. Potential future exposure is calculated by multiplying the principal amount (or notional principal amount)[12] by a specified credit conversion factor.

Specific credit conversion factors for potential exposure have not yet been determined; rather, ranges for the factors are indicated in Table 1. Credit conversion factors for potential credit exposure from interest rate contracts are zero for interest rate contracts with remaining maturity of less than one year, and one-half to one percent per complete year for interest rate contracts with remaining maturity of one year or more. Credit conversion factors for potential credit exposure from exchange rate contracts are zero for exchange rate contracts with remaining maturity of less than three days; one to two percent for contracts with remaining maturity of from three days to less than one month; two to four percent for contracts with remaining maturity of from one month to less than three months remaining maturity; four to eight percent for contracts with remaining maturity of from three months to less than one year; and five to ten percent, plus one to two percent per complete year, for contracts with remaining maturity of one year or more.

TABLE 1.—POTENTIAL CREDIT EXPOSURE

[Proposed Conversion Factors,[1] Interest Rate and Foreign Exchange Rate Contracts (Percentage of notional principal amount)]

Remaining maturity	Interest rate [2] contracts	Exchange rate [3] contracts (percent)
Less than one year:		
Less than three days	0	0
Three days to one month	0	1–2
One month to three months	0	2–4
Three months to one year	0	4–8
One year or longer	[4]	[5]

[1] The authorities will carefully review these proposed credit conversion factors in light of public comments on the implications for pricing and competition.

[2] Interest rate contracts include single-currency interest rate swaps, forward rate agreements, interest rate options purchased (except those purchased on exchanges), and similar instruments. However, no potential credit exposure would be calculated for single-currency floating/floating interest rate swaps; the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

[3] Exchange rate contracts include cross-currency interest rate swaps, forward foreign exchange contracts, and foreign exchange options purchased (except those purchased on exchanges), and similar instruments.

[4] (½ to 1 pct.) per complete year remaining to maturity.

[5] (5 to 10 pct.) + (1 to 2 pct.) per complete year remaining to maturity.

Interest rate contracts include single-currency interest rate swaps, forward rate agreements, over-the-counter interest rate options purchased, and similar instruments. Exchange rate contracts include cross-currency interest

[12] The notional principal amount, or value, is the reference amount of money used to calculate interest payment streams. Principal amounts generally are not exchanged in single-currency interest-rate swaps, but generally are exchanged in foreign exchange contracts (including cross-currency interest rate swaps).

rate swaps, forward foreign exchange contracts, over-the-counter foreign currency options purchased, and similar instruments. Interest rate and exchange rate contracts, such as futures contracts, that are traded on organized exchanges and are subject to daily marking-to-market and payment of variation margin are excluded from the risk asset ratio. Spot foreign exchange transactions also are excluded from the risk asset ratio."

Board of Governors of the Federal Reserve System, March 17, 1987.

William W. Wiles,

Secretary of the Board.

Attachment—Agreed Proposal; Credit Equivalent Amounts for Interest Rate and Foreign Exchange Rate Related Instruments

I. Background

On January 8, 1987, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Bank of England published a joint proposal on primary capital and the assessment of capital adequacy.[1] The proposal established a general framework for measuring primary capital and relating minimum capital requirements to the risk profiles of banking organizations.

A central element of this framework was a ratio of primary capital to weighted risk assets. The proposal established weights to be applied to the principal amounts of assets and selected off-balance sheet items to calculate total weighted risk assets. In the case of the off-balance sheet obligations, risk weights would be determined by a two-step process. First, the notional principal amount would be translated into a balance sheet equivalent credit exposure. Second, the resulting "credit equivalent amount" would be assigned one of five risk weights in the same way that weights are assigned to balance sheet assets, that is, based on broad distinctions among types of obligors (counterparties) and, in some cases, the remaining maturity of the obligation and qualifying collateral or guarantees.

The proposal indicated that risk weights would be applied to interest rate and foreign exchange rate related off-balance sheet instruments, but procedures for converting notional principal amounts into balance sheet equivalents had not yet been established. This paper proposes an agreed approach to calculating credit equivalent amounts for such instruments, which is designed to be consistent with the relatively simple structure of the overall risk asset framework.

II. Scope

(a) Instruments

The instruments that would be *included* in the computation of total weighted risk assets are the following:

(i) Single-currency interest rate swaps;

(ii) Forward rate agreements;

(iii) Over-the-counter interest rate options purchased;

(iv) Cross-currency swaps (including cross-currency interest rate swaps);

(v) Forward foreign exchange contracts;

(vi) Over-the-counter foreign currency options purchased; and

(vii) Any other instruments of a similar nature that give rise to similar credit risks (e.g. forward gold contracts, which would be treated as foreign exchange instruments).

The following types of interest rate and foreign exchange rate related instruments would be *excluded:*

(i) Spot foreign exchange contracts; and

(ii) Instruments traded on futures and options exchanges that require daily marking-to-market and payment of variation margin.

(b) Banking Organizations

All banking organizations should expect that the credit risks inherent in interest rate and exchange rate instruments and the management systems used to monitor and control those risks will be reviewed and assessed as part of the process of routine supervision and examination.

The regulatory authorities in each country would, however, retain the discretion to decide whether some classes of banking organizations they supervise should be exempted from the coverage of this proposal on *de minimis* grounds.

III. Calculation of Credit Equivalent Amounts

(a) Overview

Credit equivalent amounts would be calculated for each individual contract of the types described in II(a) above. For each contract, the credit equivalent amount would be measured as the sum of (i) the mark-to-market value (positive or negative) of the contract on the reporting date (the "current exposure"); and (ii) an estimate of the potential future credit exposure over the remaining life of the instrument (the "potential exposure"). Current exposure and potential exposure are further defined and explained below.

In general, if this sum is negative, the credit equivalent amount would be set equal to zero, because the bankruptcy of a counterparty would not necessarily relieve the banking organization of its obligation to make payments stipulated by the contract, that is, the banking organization would not necessarily realize a profit. However, as described below, under certain conditions negative credit equivalent amounts could be netted against positive credit equivalent amounts to the same counterparty (See section IV(c) on Netting Arrangements).

(b) Current Exposure

The current exposure on a contract is simply the mark-to-market value on the reporting date. The mark-to-market value is the amount that the banking organization would have to pay to replace the net payment stream specified by the contract if the counterparty were to default. Negative mark-to-market values would be taken into account in the calculation of credit equivalent amounts, not because the banking organization could benefit from a default, but because the negative mark-to-market value reduces the likelihood that credit exposure will arise over the remaining life of the contract.

The mark-to-market value would include the value of interest that has accrued but has not been received. U.S. banking organizations would measure mark-to-market values in dollars and U.K. banking organizations in sterling, regardless of the currency or currencies specified in the contract.

(c) Potential Exposure

Potential exposure represents the additional exposure that may arise over the remaining life of the contract as a result of fluctuations in interest rates or exchange rates. Such changes may increase the market value of the contract in the future and, therefore, the cost of replacing it if the counterparty subsequently defaults. Thus, the contract entails a commitment by the banking organization to assume additional credit exposure in the future. This commitment requires capital support beyond what is necessary to support the current credit exposure on the reporting date.

The potential credit exposure associated with the commitment created by a contract of the type covered by this proposal is proportional to the notional principal amount, but the ratio of potential exposure to notional principal (the "credit conversion factor" for potential exposure) varies considerably across contracts, depending on the remaining maturity of the contract and the volatility of the interest rates and/or foreign exchange rates to which the contract is indexed, among other factors.

The staffs of the Bank of England, the Office of the Comptroller of the Currency, and the Federal Reserve have developed statistical models of potential exposure for a variety of interest rate and exchange rate contracts.[2] On the basis of this work, the ranges of credit conversion factors set out in Table 1 are proposed. Potential exposure on a contract would be determined by multiplying the notional principal amount by the proposed conversion factor.

TABLE 1.—POTENTIAL CREDIT EXPOSURE—PROPOSED CONVERSION FACTORS [1] INTEREST RATE AND FOREIGN EXCHANGE RATE CONTRACTS

[Percentage of Notional principal amount]

Remaining maturity	Interest rate [2] contracts	Exchange rate [3] contracts
Less than one year: Less than three days.	0	0.

[1] Agreed Proposal of the United States Federal Banking Supervisory Authorities and the Bank of England on Primary Capital and Capital Adequacy Assessment.

[2] The methodology employed is described in a technical working paper entitled "Potential Credit Exposure on Interest Rate and Foreign Exchange Related Instruments," which is available upon request.

TABLE 1.—POTENTIAL CREDIT EXPOSURE—PROPOSED CONVERSION FACTORS [1] INTEREST RATE AND FOREIGN EXCHANGE RATE CONTRACTS—Continued

[Percentage of Notional principal amount]

Remaining maturity	Interest rate [2] contracts	Exchange rate [3] contracts
Three days to one month.	0	1 to 2%.
One month to three months.	0	2 to 4%.
Three months to one year.	0	4 to 8%.
One year or longer.	(½ to 1%) per complete year remaining to maturity.	(5 to 10%) + (1 to 2%) per complete year to maturity.

[1] The authorities will carefully review these proposed credit conversion factors in light of public comments on the implications for pricing and competition.

[2] Interest rate contracts include single-currency interest rate swaps, forward rate agreements, interest rate options purchased (except those purchased on exchanges), and similar instruments. However, no potential credit exposure would be calculated for single-currency floating/floating interest rate swaps; the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

[3] Exchange rate contracts include cross-currency interest rate swaps, forward foreign exchange contracts, and foreign exchange options purchased (except those purchased on exchanges), and similar instruments.

In considering appropriate conversion factors, the U.S. and U.K. authorities have been conscious of a trade-off between two important objectives. On the one hand, the authorities are determined to require adequate capital support for potential future exposure. On the other hand, the authorities are concerned that overly stringent capital requirements might unnecessarily affect the ability of U.S. and U.K. banking organizations to price interest rate and exchange rate contracts competitively. Consequently, the authorities will carefully consider public comments on the implications of the proposal for pricing and competition before reaching final decisions on appropriate credit conversion factors.

(d) Examples

Table 2 provides examples of how credit equivalent amounts for several types of interest rate and foreign exchange rate contracts would be calculated. In each case, three pieces of information are needed to calculate the credit equivalent amount: The current mark-to-market value, the notional principal, and the remaining maturity of the contract. Once the credit equivalent amounts have been calculated, they are allocated to the appropriate risk category on the basis of the type of obligor and, in some cases, the remaining maturity of the contract or the presence of certain types of collateral or guarantees (collateral and guarantees are discussed in section IV(b) below).

TABLE 2.—CALCULATION OF CREDIT EQUIVALENT AMOUNTS, INTEREST RATE AND FOREIGN EXCHANGE RATE RELATED TRANSACTIONS

Type of contract (remaining maturity)	Notional principal (dollars) (1)	×	Potential exposure conversion factor [1] (2)	=	Potential exposure (dollars) (3)	+	Current exposure (dollars) [2] (4)	=	Credit equivalent (dollars) (5)
(1) 120-day forward foreign exchange	5,000,000		0.04		200,000		100,000		300,000
(2) 120-day forward foreign exchange	6,000,000		.04		240,000		−120,000		120,000
(3) 3-year single-currency fixed/floating interest rate swap	10,000,000		.015		150,000		200,000		350,000
(4) 3-year single-currency fixed/floating interest rate swap	10,000,000		.015		150,000		−250,000		0
(5) 7-year cross-currency floating/floating interest rate swap	20,000,000		.12		2,400,000		−1,300,000		1,100,000
Total	51,000,000								1,870,000

[1] For illustrative purposes only, these examples use credit conversion factors at the lower end of the ranges shown in Table 1.
[2] These numbers are purely illustrative.

IV. Additional Issues

(a) Accounting

In certain cases, credit exposures arising from the off-balance sheet instruments covered by this proposal may already be reflected, in part, on the balance sheet. To avoid double counting such exposures in the assessment of capital adequacy and, perhaps, assigning inappropriate risk weights, counterparty credit exposures arising from the types of instruments covered by this proposal may need to be excluded from balance sheet assets in calculating banking organizations' total weighted risk assets and risk asset ratios. The supervisory authorities will address this issue in designing reporting systems. The following examples have been identified.

U.S. banking organizations generally record current counterparty credit exposures (mark-to-market values) on forward foreign exchange contracts on the balance sheet. In addition, some U.S. banking organizations also include certain counterparty credit exposures that arise from interest rate swaps and options purchased on the balance sheet. Similarly, generally accepted accounting practice in the United Kingdom is to mark to market unmatured forward foreign exchange contracts and other off-balance sheet foreign exchange and interest rate contracts and record these amounts on the balance sheet, typically as either sundry debtors or sundry creditors.

(b) Collateral and Guarantees

The existence of collateral and guarantees would not be recognized in calculating credit equivalent amounts. In some cases, however, it would be reflected in the assignment of risk weights, just as in the case of balance sheet assets. Specifically, the joint U.S./U.K. agreement on the assessment of capital adequacy explicitly recognizes three types of collateral: Domestic national government debt, cash on deposit in the lending institution, and (for the United States only) debt of U.S. government agencies and U.S. government-sponsored agencies. In this context, the collateral would need to have value equal to the full credit equivalent amount—current plus potential exposure. The

only guarantees recognized are those extended by the domestic national government or (for the United States only) by domestic national government agencies. Thus, guarantees in the form of standby letters of credit or surety bonds issued by insurance companies would *not* affect the assignment of risk weights to any credit exposures, including those covered by this proposal.

(c) Netting Arrangements

Market participants have been developing arrangements under which multiple interest rate or foreign exchange rate contracts with the same counterparty could be consolidated within a single master agreement and translated into a single contract with the counterparty. Such arrangements would require amounts receivable from and payable to a counterparty to be netted, resulting in a single stream of payments between counterparties. The U.S. regulatory authorities and the Bank of England recognize that such arrangements may in certain circumstances reduce credit risk and wish to encourage their further development and implementation. If market participants were to develop such standardized master agreements with general, market-wide application, and if there were unambiguous legal opinions that such agreements reduce credit risk and would be recognized by the relevant judicial authorities, the proposal might be modified to treat multiple contracts with a single counterparty that were created within the terms of such a master agreement as a single net contract.

[FR Doc. 87-6161 Filed 3-23-87; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ASW-9]

Proposed Designation of Transition Area; Graford, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Graford, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Possum Kingdom Airport, Graford, TX, utilizing the new Brazos River nondirectional radio beacon (NDB). This action is necessary to ensure segregation of aircraft operating to and from the airport under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before May 10, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87-ASW-9, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Robert P. Wheeler, Airspace and Procedures Branch, ASW-534, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area at Graford, TX. To enhance airport usage, a new SIAP is being developed for the Possum Kingdom Airport, utilizing the Brazos River NDB as a navigational aid. This NDB will provide new navigational guidance for aircraft utilizing the airport. The development of a new SIAP, based on this navigational aid, entails designation of a transition area at Graford, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control services. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This proposed action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Graford, TX [New]

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Possum Kingdom Airport, (latitude 32°55'23" N., longitude 98°26'10" W.)

Issued in Fort Worth, TX, on March 11, 1987.

Michael R. Thompson,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87–6239 Filed 3–23–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–8]

Proposed Designation of Transition Area; Stamford, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Stamford, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Arledge Field Airport, Stamford, TX, utilizing the new Stamford nondirectional radio beacon (NDB). This action is necessary to ensure segregation of aircraft operating to and from the airport under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before May 10, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87–ASW–8, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Robert P. Wheeler, Airspace and Procedures Branch, ASW–534, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASW–8."

The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area at Stamford, TX. To enhance airport usage, a new instrument approach procedure is being developed for the Arledge Field Airport, Stamford, TX, utilizing the Stamford NDB as a navigational aid. This NDB will provide new navigational guidance for aircraft utilizing the airport. The development of a new instrument approach procedure, based on this navigational aid, entails designation of a transition area at Stamford, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control services. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This proposed action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

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

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Stamford, TX [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Arledge Field Airport, (latitude 32°54'38" N., longitude 99°44'02" W.,) and within 5 miles each side of the 177° bearing from the Stamford NDB, (latitude 32°52'07" N., longitude 99°43'58" W.), extending from the 6.5-mile radius area to 14 miles south of the airport; excluding that portion that coincides with the Abilene, TX, transition area.

Issued in Fort Worth, TX, on March 11, 1987.

Michael R. Thompson,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-6240 Filed 3-23-87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Notice of advisory committee meetings.

SUMMARY: This notice announces the dates, times, and location of future meetings of the Rule 703 Advisory Committee. It also revises the starting times for the previously-announced April 8 meeting and announces additional meetings in April and May. Fifteen days' notice of advisory committee meetings is required under the Federal Advisory Committee Act.

DATES: The Rule 703 Advisory Committee is scheduled to meet on the following dates: April 7, 1987 at 10:00 a.m.; April 8, 1987 at 9:00 a.m.; May 5, 1987 at 10:00 a.m.; and May 6, 1987 at 9:30 a.m. All of these meetings will be open to the public. The April 8 meeting was previously scheduled to begin at 9:30 a.m. The April 7 and May 5 meetings are additional meetings not previously scheduled.

ADDRESS: All meetings will be held at the Conservation Foundation, 1255 23rd Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT:

Chairpersons:

John A.S. McGlennon, ERM-McGlennon Associates, 283 Franklin Street, Boston, MA 02110, (617) 357-4443

Gail Bingham, Conservation Foundation, 1255 23rd Street, NW., Washington, DC 20037, (202) 293-4800

FTC Staff:

Gary M. Laden, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326-3118.

SUPPLEMENTARY INFORMATION:

On August 20, 1986, the Commission published a notice (51 FR 29666) announcing the formation of an advisory committee to develop proposed revisions to the Rule on Informal Dispute Settlement Procedures ("Rule 703"), 16 CFR Part 703. The Federal Advisory Committee Act, 5 U.S.C. App. I sections 1-15, and its implementing regulations require that advisory committee meetings be open to the public and that they be announced in the **Federal Register** at least fifteen days in advance. Accordingly, the Commission is publishing this notice of future meetings of the Rule 703 Advisory Committee. The dates, times, and location of the scheduled meetings appear above.

The meetings announced above constitute the full remaining schedule of the Rule 703 Advisory Committee. In its August 1986 notice establishing the committee, the Commission stated that the committee would have eight months after its organizational meeting to complete negotiations. Thus, no meetings will be scheduled beyond May 1987.

The remaining meetings will principally be devoted to discussion of progress reports and recommendations from subcommittees that were formed at the committee's October 22, 1986 meeting. Each subcommittee has been delegated a number of particular issues for detailed discussion. (Lists of the individuals participating on each subcommittee and the issues within each subcommittee's purview are available from the chairpersons or the FTC staff.) The subcommittees are to develop consensus recommendations on each issue and report back to the full committee. Subcommittee recommendations must be approved by consensus of the full committee.

Because of the inherently fluid nature of the negotiation process, it is not possible for the committee to develop more specific agendas for the announced meetings at this time. The public is encouraged, however, to contact the chairpersons or FTC staff as each meeting approaches for further information on the specific matters likely to be brought up.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-6331 Filed 3-23-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Public Comment Period on Modifications to Proposed Amendments to the West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the reopening of the comment period on proposed amendments to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program), which the Secretary of the Interior conditionally approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The reopening will allow the public to comment on modifications to the amendments which consist of policy statements governing the State's inspection practices. This notice sets forth the times and locations that the West Virginia program, proposed amendments, and modifications to the amendments are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendments as modified.

DATE: Written comments not received on or before 4:00 p.m. on April 8, 1987, will not necessarily be considered in the decision process.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative

Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the modified amendments (Administrative Record Nos. WV–721 and WV–722), the West Virginia program, and the Administrative Record on the West Virginia program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed program amendments as modified, by contacting the OSMRE Charleston Field Office.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW., Room 5315, Washington, DC 20240, Telephone: (202) 343–5492

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–4004

West Virginia Department of Energy, 1615 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–3267.

FOR FURTHER INFORMATION CONTACT:

James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On March 3, 1980, West Virginia submitted its proposed permanent regulatory program, which the Secretary of the Interior disapproved on October 22, 1980, following a review in accordance with 30 CFR Part 732 (45 FR 69249–69271). On December 19, 1980, West Virginia resubmitted its proposed program, which the Secretary approved on January 21, 1981.

Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval of the West Virginia program, can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 948.11, 948.12, 948.13, 948.15 and 948.16.

II. Submission of Amendment

By letter dated June 30, 1986 (Administrative Record No. WV–709), West Virginia submitted, among other things, proposed amendments consisting of a policy statement establishing inspection frequency requirements, establishing procedures for determining when an operation may be considered inactive for inspection purposes, defining the terms "complete inspection" and "partial inspection" and establishing requirements governing the conduct of aerial inspections. The proposed amendments also include a directive clarifying the impoundment inspection requirements of section 4B.05(c) of the West Virginia Surface Mining Reclamation Regulations. In addition, the State submitted a revised version of the Code of Violations, which OSMRE originally approved on July 11, 1985 (50 FR 28324–28342), to clarify how it is to be implemented and to revise the statutory citations to reflect passage of the West Virginia Energy Act, which OSMRE also approved, with certain exceptions, on July 11, 1985 (50 CFR 28316–28323).

In the same letter, West Virginia requested that the deadline for submission of the amendment concerning the use of explosives, as required by 30 CFR 948.16(a), be extended until September 1, 1986, which further communication subsequently revised to October 1, 1986. By notice in the September 24, 1985 **Federal Register**, the Director had previously extended the deadline for submission of this amendment until November 26, 1985 (50 FR 38651–38653). West Virginia noted that the legislature must approve all permanent regulations, and that the 1986 session adjourned for the year on March 15, 1986, without considering the State's proposed regulatory revisions. West Virginia subsequently promulgated emergency regulations in January 1987, thereby rendering the extension request moot.

OSMRE announced receipt of the June 30, 1986 letter and accompanying materials in the September 18, 1986 **Federal Register** (51 FR 33066–33067) and opened the public comment period until October 18, 1986. Since OSMRE subsequently learned that the policy statements included with this letter were being further revised, no action was taken upon the close of the comment period.

On December 29, 1986, West Virginia submitted a revised form of the policy statement clarifying the requirements for impoundment inspections as well as a new policy statement allowing licensed land surveyors to certify and inspect drainage systems and impoundments (Administrative Record No. WV–721).

On February 26, 1987, West Virginia submitted a revised form of the policy statement governing inactive status criteria and inspection frequencies (Administrative Record No. WV–722). The modifications concern the criteria for granting inactive status to sites with a cropland postmining land use.

In accordance with the provisions of 30 CFR 732.17, the Director is now seeking comment on whether the modified amendments satisfy the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendments are approved, they will become part of the West Virginia program. Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATE"** or at locations other than Charleston, West Virginia will not necessarily be considered in the final rulemaking or included in the Adminstrative Record.

III. Procedural Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this section is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule would not impose any new requirenents; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 1987.

Brent Walquist,

Assistant Director, Program Policy, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-6305 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL-3173-7]

Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program; Extension of Comment Period

AGENCY: Envionmental Protection Agency.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On January 9, 1987, EPA published a notice of proposed rulemaking (52 FR 924) to revise the section of the Code of Federal Regulations (40 CFR Part 85, Subpart V) covering motor vehicle and motor vehicle engine performance warranty regulations and voluntary aftermarket part certification.

A public hearing was held on March 3, 1987, at EPA's Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan, to hear comments from interested parties regarding this proposed rulemaking (NPRM). In the NPRM and in the notice announcing the public hearing (52 FR 4512, February 12, 1987), the public comment period deadline was established as April 9, 1987. At the public hearing, several persons requested that EPA extend the public comment period. In response to those requests, EPA is today announcing an extension of the comment period for an additional 90 days.

DATES: Public Comment: Comments on the NPRM must be submitted on or before July 10, 1987.

ADDRESS: Copies of materials relevant to this NPRM are available for inspection in public Docket No. EN-84-08 at the Central Docket Section (A-130), Gallery 1, West Tower Lobby, 401 M Street SW., Washington, DC 20460, phone (202) 382-7548, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying materials in the docket. Any party desiring to comment on this NPRM should submit written comments to Docket No. EN-84-08 at the above address.

FOR FURTHER INFORMATION CONTACT: Michael Sabourin, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Michigan, 48105, (313) 668-4316.

Dated: March 18, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-6334 Filed 3-23-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-156; RM-5135]

Radio Broadcasting Services; Ouray, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: Proposal to allot Channel 289 to Quray, Colorado, as that community's second local FM service, as requested by Janice Mittlemark, is dismissed for lack of interest in pursuing the proposal. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 86-156, adopted February 10, 1987, and released March 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-6252 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-06; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under this proposal, a motor vehicle could be equipped, at its manufacturer's option, with a front-mounted lamp, or lamps, that would operate during the daytime when the ignition is on. The lamp would be known as a "Daytime Running Lamp" (DRL). Existing parking lamps because of the 4 candela minimum intensity requirement at the H-V test point, and fog lamps because of their beam problems and intensity level could not serve as effective DRLs. The photometric minima and maxima of DRLs would be 500 and 7000. If a DRL is located next to a front turn signal or hazard warning signal, it would have to be extinguished when those lamps were operating. The purpose of the lamp would be to improve the conspicuity of the vehicle. This action implements the grant of petitions for rulemaking submitted by the Insurance Institute for Highway Safety, and the Traffic Safety Board of Nassua County, New York.

DATES: Comment closing date for the proposal is May 8, 1987. Effective date of the amendment would be September 1, 1988.

ADDRESS: Comments should refer to the docket number and the notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, NHTSA, Washington, DC (202-366 5276).

SUPPLEMENTARY INFORMATION: The Insurance Institute for Highway Safety (IIHS) has petitioned NHTSA for rulemaking to amend Federal Motor Vehicle Safety Standard No. 108 *Lamps,*

Reflective Devices and Associated Equipment "to allow manufacturers to equip vehicles with daytime running lights (DRLs)—vehicle lights used during daylight hours—that automatically turn on with ignition." A similar petition was received from Nassau County Traffic Safety Board, New York, which would require DRLs, rather than allowing them on an optional basis.

IIHS argued that its amendment allowing optional installation would promote safety, preempt potentially conflicting state legislation, and further international harmonization of standards. Citing studies that show substantial reduction in multiple vehicle accidents involving motorcycles operated with their headlamps on, IIHS has concluded that vehicle conspicuity is an important factor for all vehicle types in crash avoidance and that a DRL is an inexpensive way of increasing driver awareness of other vehicles in the traffic stream. It believes that DRLs have a potential similar to daytime operation of motorcycle headlamps to reduce the incidence of accidents by increasing vehicle conspicuity.

The petition called the agency's attention to the favorable experience occurring in Sweden and Finland which mandate DRLs. In Sweden, there has been an 11 percent decrease in front end collisions involving more than one vehicle, or collisions occurring at intersections, since DRLs became mandatory, in comparison with the rate before. Beginning in April 1982, DRLs were required in Finland for year round use, having been mandatory only for winter use for the preceding 10 years, though widely used voluntarily since 1968. A study comparing multiple and single vehicle crashes for the period 1968–74 indicated that the daytime crash rate in accidents involving more than one vehicle had decreased by 27 percent, though other crash rates had increased during that period. IIHS conducted its own experiment using a fleet of over 2000 cars, vans, and pickup trucks throughout most of the United States, and reported a 7 percent difference in the ratio of relevant reported crashes to total mutiple vehicle crashes for DRL modified vehicles compared to control vehicles.

During that test, IIHS found that state and local laws "present unnecessary and unintended restrictions on DRLs. . . . . They (State laws) were not written to accommodate the concept of DRLs, and therefore, it is difficult to evaluate the legality of a particular DRL design." IIHS petition, p.2. For example, some States forbid the use of parking lamps without the use of headlamps, or the use of parking lamps "for illumination." IIHS argues that an amendment to Standard 108 allowing use of DRLs would assure the legality of their use in all States, and thus eliminate a possible inadvertent obstacle to widespread introduction of this safety concept.

Finally, IIHS believes that an amendment is especially appropriate because Canada has proposed DRLs, and their allowance in the United States would further the cause of international harmonization of safety standards.

The agency has tentatively reached conclusions similar to those of IIHS and Nassau County, and has granted their petitions. An amendment of the nature requested has the potential of reducing vehicle collisions, saving lives and property. It also has the potential of enhancing the international harmonization of standards, a longstanding and frequently expressed goal of this Administration. On the other hand, the benefits ascribed to DRL's could be due in part to the different ambient light levels in the Northern latitudes, given the fact that the IIHS study conducted in the U.S. showed a lesser benefit than the Scandinavian experience. Because of this uncertainty the agency is proposing only that DRLs be optional until a clearer picture can be obtained.

State laws, regulations, and enforcement practices concerning the installation and use of lighting and other motor vehicle equipment items are complex and they vary considerably from state to state. The agency agrees with IIHS that state lighting laws did not contemplate the concept of OEM-installed DRLs, and thus some confusion may arise in some states as to whether such equipment may be allowed. It appears that few if any State laws explicitly bar DRLs, but it nonetheless appears desirable— from the standpoint of manufacturers, motorists, and states—to clarify that such equipment may be installed and used on motor vehicles.

The agency has reviewed Canada's proposal to require DRLs on passenger cars manufactured on and after September 1, 1988, for sale in that country. To the extent that cars manufactured in Canada for sale in the United States are equipped with DRLs, the agency wishes to ensure that there is no legal inhibition to their introduction, and use in this country.

The proposed amendments to Standard No.108 are limited in number, and intended to be compatible with the far more detailed Canadian proposal. The amendments are intended to allow maximum flexibility in DRL design and placement, restricted only by a minimum number of safety considerations. Therefore, NHTSA is proposing only that a vehicle may be equipped with a lamp which is intended for daytime use and which has a candela not less than 500 nor more than 7000 at the H–V test point. NHTSA believes that the maximum candela restriction is necessary to prevent excessive glare. The DRL may not be either a fog lamp or a parking lamp. However, fog and parking assemblies can be used with dual intensity bulbs to provide both DRL and other fog or parking lamp functions. The minimum candela that NHTSA is proposing for DRLs equals the maximum candela prescribed by the SAE for fog lamps. Existing parking lamps offer inadequate brightness for use as DRLs. If the distance between the lighted edge of a DRL and the optical axis of a front turn signal lamp is less than 4 inches, the DRL is required to automatically turn off whenever the turn signal or hazard warning signal is operating. This requirement is necessary to ensure that the DRL does not "mask" the signals displayed by these other lamps. A DRL could also be optically combined with a turn signal lamp.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation." or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. Since use of the proposed DRL is optional, the proposal would not impose additional requirements or costs.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal could result in a small increase in the quantity of materials used in the manufacture of motor vehicles necessary for the installation of wiring turn signal lamps, or providing a separate lamp as a DRL. It could also result in a small increase in fuel consumption for vehicles equipped with DRLs. This proposal does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), because it is not a major Federal action significantly affecting the quality of the human environment.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a

substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles, those affected by the proposal, are not generally small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles will be minimally impacted.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The engineer and lawyer primarily responsible for this proposal are Jere Medlin and Taylor Vinson respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR 571 and 571.108, Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment,* be amended as follows:

1. The authority citation for Part 571 would continue to read:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

§ 571.108 [Amended]

2. Paragraph S3 *Definitions* would be amended by adding the following definition between the definitions of "Aiming Reference Plane" and "Flash."

"Daytime Running Lamp" means a lamp intended to improve the visibility of a vehicle when the vehicle is viewed from the front in daylight.

3. The title of paragraph S4.6 would be changed to "S4.6 *Optional Systems for Vehicle Conspicuity.*"

4. New paragraph S4.6.3 would be added to read:

S4.6.3 A passenger car, multipurpose passenger vehicle, truck, or bus manufactured on or after September 1, 1988, may be equipped with a daytime running lamp provided that:

(a) The lamp is a lamp other than a parking lamp or fog lamp.

(b) The candlepower measured at test point H–V is not less than 500 nor more than 7,000.

(c) The lamp is not activated when a turn signal or hazard warning signal is activated if the distance measured on a vertical transverse plane from its lighted edge to the optical axis of the turn signal lamp is less than 4 inches (101.6 mm).

Issued on March 19, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–6306 Filed 3–19–87; 12:19 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222 and 227

[Docket No. 70227–7027]

Sea Turtle Conservation; Shrimp Trawl Requirements

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

ACTION: Proposed rule; notice of an additional public hearing..

SUMMARY: A schedule of public hearing locations was included in the proposed rule document containing management measures for shrimp trawlers which was published March 2, 1987, 52 FR 6179. An additional hearing has been scheduled.

DATE: An additional public hearing will be held April 2, 1987, at 2 p.m.

ADDRESS: The public hearing will be held at the following location: Biloxi, MS, Mississippi Coast Coliseum and Convention Center, 3800 West Beach Blvd.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz (813/893–3366) or David Cottingham (202/377–518).

Dated: March 18, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–6312 Filed 3–23–87; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 351]

Resolution and Order Approving Application; Rickenbacker Port Authority for a Foreign-Trade Zone in Franklin County, OH, Within the Columbus Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution And Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Rickenbacker Port Authority, a political subdivision of the State of Ohio, filed with the Foreign-Trade Zones Board (the Board) on March 7, 1986, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Franklin County, Ohio, within the Columbus Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant; To Establish, Operate, and Maintain a Foreign-Trade Zone in Franklin County, OH; Columbus Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.

Whereas, the Rickenbacker Port Authority (the Grantee), a political subdivision of the State of Ohio, has made application (filed March 7, 1986, Docket No. 9–86, 51 FR 9697) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Franklin County, Ohio, within the Columbus Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 138 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, The Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 13th day of March 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–6373 Filed 3–23–87; 8:45 am]
BILLING CODE 3510-DS-M

[Order No. 352]

Resolution and Order Approving Application of Sierra Vista Economic Development Foundation, Inc., for a Foreign-Trade Zone in Sierra Vista, AZ, Adjacent to the NACO Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a through 81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Sierra Vista Economic Development Foundation, Inc., an Arizona non-profit corporation, filed with the Foreign-Trade Zones Board (the Board) on July 15, 1986, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Sierra Vista, Arizona, adjacent to the NACO Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant; to Establish, Operate, and Maintain a Foreign-Trade Zone in Sierra Vista, Arizona

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a through 81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Sierra Vista Economic Development Foundation, Inc. (the Grantee), an Arizona non-profit corporation, has made application (filed July 15, 1986, Docket No. 26–86, 51 FR 27435) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Sierra Vista, Arizona, adjacent to the Naco Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 139 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington DC, this 13th day of March 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–6374 Filed 3–23–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–427–098]

Anhydrous Sodium Metasilicate From France; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. The review covers one exporter of this merchandise and the period January 1, 1985 through December 31, 1985. The review indicates the existence of a dumping margin for the firm during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Since inadequate information was received in response to our questionnaire, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelleher or John Kugelman,

Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 43733) the final results of its last administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. We began the current review of the order under our old regulations. After the promulgation of our new regulations, PQ Corporation, the petitioner, requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published a notice of initiation of the antidumping duty administrative review on February 18, 1986 (51 FR 5752). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of anhydrous sodium metasilicate, a crystalline silicate (Na_2SiO_3) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore-flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. Anhydrous sodium metasilicate is currently classifiable under item number 421.3400 of the Tariff Schedules of the United States Annotated.

The review covers one exporter of French anhydrous sodium metasilicate, Rhone Poulenc, and the period January 1, 1985 through December 31, 1985.

Rhone Poulenc provided an inadequate response to the Department's questionnaire. Specifically, although requested several times, among other things Rhone-Poulenc did not furnish a U.S. or home market sales listing on computer tapes, English versions of various financial statements, further information on packing, inland freight and selling expenses, and a complete listing of U.S. sales to unrelated customers. Therefore, the Department used the best information available, which is the margin from the fair value investigation.

Preliminary Results of the Review

As a result of our review we preliminarily determine that a margin of 60 percent exists for Rhone Poulenc for the period January 1, 1985 through December 31, 1985.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 60 percent shall be required. This deposit requirement is effective for all shipments of French anhydrous sodium metasilicate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: March 14, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–6370 Filed 3–23–87; 8:45 am]

BILLING CODE 3510-DS-M

[A–401–004]

Carton-Closing Staples and Staple Machines From Sweden; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On December 18, 1986, the Department of Commerce published the preliminary results of its antidumping duty administrative review of the antidumping duty order on carton-closing staples and staple machines from Sweden. The review covers one manufacturer/exporter of this merchandise to the United States and the period December 1, 1984 through November 30, 1985.

We gave interested parties an opportunity to comment on the preliminary results. Based on the comments we received, we have changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Katherine Glover or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 1986 the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 45365) the preliminary results of its administrative review of the antidumping duty order on carton-closing staples and staple machines from Sweden. The Department has now completed its review.

Scope of the Review

Imports covered by the review are shipments of certain carton-closing staples in strip form and certain non-automatic carton-closing staple machines. Carton-closing staples are U-shaped wide crown fastening devices used to secure and close the flaps of corrugated paperboard cartons. They are commonly referred to as wide-crown staples and are available in either 50 or 60 piece sticks of 2,000 or 2,500 per box.

Staples are made of steel, most often copper coated or galvanized. Carton-closing wide crown staples differ from office, desk-type, and other industrial staples primarily in the width of the crown and wire dimensions. Carton-closing wide crown staples have crown widths of 1¼ inches or more. The wire cross-sectional dimensions vary from .037–.040 inches by .074–.092 inches.

Non-automatic wide crown carton-closing staple machines use the wide crown staples described above and can be divided into two categories, hand-held top closing staple machines and free-standing bottom closing machines.

Such staples and staple machines are currently classifiable under items 646.2000 and 662.2065, respectively, of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter, Josef Kihlberg AB, of certain carton-closing staples and staple machines from Sweden and the period

December 1, 1984 through November 30, 1985.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the one respondent involved, Josef Kihlberg AB.

Kihlberg's Comments

Comment 1: Kihlberg argues that the Department of Commerce has erroneously applied a difference in merchandise adjustment to all home market sales, even when the merchandise sold in both markets was identical.

Department's Position: We agree and have now applied the adjustment only when sales of model 581 staples in the United States were compared to sales of model 561 staples in Sweden. All other comparisons involved identical merchandise, so no difference in merchandise adjustment was made.

Comment 2: Kihlberg claims that the Department incorrectly calculated indirect selling expenses in the home market as a percentage of Kihlberg's total sales volume rather than as a percentage of home market sales.

Department's Position: We agree and have recalculated the percentage using the applicable home market sales volume.

Comment 3: Kihlberg asserts that the Department of Commerce should compare large volume ESP sales to home market sales of comparable quantities, which received a discount, rather than use weighted average home market prices.

Department's Position: We agree and have recalculated using the home market prices for sales of quantities most comparable to individual U.S. sales.

Comment 4: Kihlberg claims that the Department erroneously looked at individual line item sales listed in the response in determining the quantity of each U.S. sale. The Department should have looked at the total ordered quantity of each invoice. As a result of this error, the Department did not use accurate U.S. quantities when making a comparison.

Department's Position: We agree and have recalculated using the total quantities per U.S. order rather than per response line item to determine which home market price to compare to U.S. prices.

Comment 5: Kihlberg argues that small volume ESP sales should be compared to weighted average home market prices.

Department's Position: We disagree. In accordance with § 353.14(a) of the Department's regulations, we have compared each U.S. sale to home market sales of the same quantities. The use of weighted average prices would be appropriate only if the home market prices were independent of quantity, which is not the case here.

Comment 6: Kihlberg claims that the appropriate comparison of Kihlberg's U.S. purchase price sales is with home market sales that were made at the highest level of discount because they were the sales at comparable quantity levels. The Department should not have used weighted average home market prices.

Department's Position: We agree that the use of weighted average home market prices was incorrect. As noted above, we have recalculated using home market prices of sales that are in quantities comparable to each individual U.S. sale. When U.S. sales were in quantities smaller than those home market sales receiving the maximum discount, we have compared them to home market sales of such smaller quantities, and used the lower quantity discounts which applied to those sales.

Final Results of the Review

As a result of the comments received, we determine that the following margins exist for the period December 1, 1984 through November 30, 1985:

Manufacturer/Exporter	Time period	Margin (percent)
Josef Kihlberg AB:		
Staples	December 1984 to November 1985.	0.3
Staple machines	December 1984 to November 1985.	.7

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties of .7 percent based on the above margins shall be required for staple machines. Since the margin for staples is less than 0.5 percent and therefore *de minimus* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for this product.

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1985 and who is unrelated to any reviewed firm, a cash deposit of .7 percent shall be required for staple machines, and no cash deposit will be required on staples. These deposit requirements are effective for all shipments of carton closing staples and staple machines from Sweden, entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 253.53a)).

Dated: March 19, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 87-6375 Filed 3-23-87; 8:45 am]

BILLING CODE 3510-25-M

[A-122-085]

Sugar and Syrups From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On February 10, 1987, the Department of Commerce published the preliminary results of its administrative review, tentative determination to revoke in part, and intent to revoke in part the antidumping order on sugar and syrups from Canada. The review covers five manufacturers and/or exporters of this merchandise to the United States and generally the period from April 1, 1983 through March 13, 1985.

We gave interested parties an opportunity to comment on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. We received comments from Redpath Sugars, Ltd. presenting further assurances that there is no likelihood of resumption of sales at less than fair value if the order is revoked as to Redpath. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results and we revoke the order with respect to Redpath Sugars, Ltd.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Robert J. Marenick Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 4165-4167) the preliminary results of its administrative review, tentative determination to revoke in part, and intent to revoke in part the antidumping duty order on sugar and syrups from Canada (45 FR 24126, April 9, 1980). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Canadian sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers five manufacturers and/or exporters of Canadian sugar and syrups and generally the period April 1, 1983 through March 31, 1985.

Final Results of Review and Revocation in Part

We invited interested parties to comment on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. We received comments from Redpath Sugars, Ltd. presenting further assurances that there is no likelihood of resumption of sales at less than fair value if the order is revoked as to Redpath. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that the following margins exist during the periods indicated:

Manufacturer/exporter	Time period	Margin (precent)
Lantic Sugar, Ltd. (formerly Atlantic Sugar Ltd.)	4/1/83-3/31/85	0
Lentzco Ltd	4/1/83-3/31/85	10.18
Redpath Sugars, Ltd	4/1/83-7/20/84	0
St. Lawrence Sugar, Ltd. (merged with Lantic Sugar Ltd.)	4/1/83-10/27/84	0
Westcane Sugar Ltd. (merged with Lantic Sugar Ltd.)	4/1/83-12/31/83	0

For the reasons set forth in the preliminary results of review, tentative determination to revoke in part, and intent to revoke in part, we are statisfied that there is no likelihood of resumption of sales at less than fair value by Redpath Sugars, Ltd. Accordingly, we revoke the antidumping order on sugar and syrups from Canada with respect to Redpath Sugars, Ltd.

This partial revocation applies to all unliquidated entries of this merchandise manufactured and exported by Redpath Sugars, Ltd., and entered, or withdrawn from warehouse, for consumption on or after July 20, 1984, the date of our tentative determination to revoke with respect to Redpath Sugars, Ltd.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1985, and who is unrelated to any reviewed firm, or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian sugar and syrups entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until publication of the final results of the next administrative review.

This administrative review, revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1) and (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: March 14, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-6372 Filed 3-23-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-008]

Titanium Sponge From the U.S.S.R.; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 17, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the USSR The review covers one exporter of this merchandise to the United States and the period August 1, 1983 through July 31, 1985.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 41516) the preliminary results of its administrative review of the antidumping finding on titanium sponge from the USSR (33 FR 12138, August 28, 1968). After the promulgation of our new regulations, an importer requested in accordance with § 353.53a(a) of the Commerce Regulations, that we complete the administrative review.

The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of titanium sponge from the USSR. Titanium sponge is currently classifiable under item 629.1420 of the Tariff Schedules of the United States Annotated. The review covers Techsnabexport, an exporter of this merchandise to the United States, and the period August 1, 1983 through July 31, 1985.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The final results of our review are the same as those presented in the preliminary results of review, and we determine that for the period August 1, 1983 through July 31, 1985, a margin of 83.96 percent exists.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, the Department will instruct the Customs Service to collect a cash deposit of estimated antidumping duties for this firm based upon the above margin, as provided in section 751(a)(1) of the Tariff Act.

For any shipments from a new producer and/or exporter not covered by this or prior administrative reviews, whose first shipments of Soviet titanium sponge occurred after July 31, 1985 and who is unrelated to any reviewed firm, a cash deposit of 83.96 percent shall be required. These deposit requirements are effective for all shipments of Soviet titanium sponge entered, or withdrawn from warehouse, for consumption on or after the date of pulbication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: March 14, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-6371 Filed 3-23-87; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments; Department of Commerce et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-097. Applicant: U.S. Department of Commerce, NOAA, Oak Ridge, TN 37831. Instrument: Nitrogen Dioxide Analyzer, Model #LMA-3. Manufacturer: Scintrex/ Unisearch, Canada. Intended use: See notice at 51 FR 6157, February 20, 1986. Reasons for this decision: The foreign instrument provides direct measurements of nitrogen dioxide with a sensitivity of 5.0 parts per trillion (volume) and a most-sensitive range at 0 to 20 parts per billion. Advice submitted by: National Bureau of Standards, January 9, 1987.

Docket Number: 86-318. Applicant: North Carolina State University, Raleigh, NC 27695-8204. Instrument: Mass Spectrometer, Model JMS-HX110 with Accesories. Manufacturer: Jeol, Japan. Intended use: See notice at 51 FR 36738, October 15, 1986. Reasons for this decision: The foreign instrument provides resolution to 100,000 (10% valley), mass range to 10,000 at an accelerating potential of 10 kilowatts, and FAB capability. Advice submitted by: National Institutes of Health, January 15, 1987.

Docket Number: 86-309. Applicant: University of Notre Dame, Notre Dame, IN 46556. Instrument: GC/Mass Spectrometer Data System, Model 8230C. Manufacturer: Finnigan-MAT, West Germany. Intended use: See notice at 51 FR 34238, September 26, 1986. Reasons for this decision: The foreign instrument provides a resolution of 50,000 (10% valley), a scan speed of 0.1 seconds per decade and FAB capability. Advice submitted by: National Institutes of Health, January 15, 1987.

Docket Number: 86-320. Applicant: Yale University School of Medicine, New Haven, CT 06510. Instrument: Piezomanipulator, Model PM 20B with Accessories. Manufacturer: Biomedizinische Instrumente, West Germany. Intended use: See notice at 51 FR 36738, October 15, 1986. Reasons for this decision: The foreign instrument provided controlled impalement and rapid advancement (to 25 micrometers per millisecond) of individual cells. Advice submitted by: National Institutes of Health, January 15, 1987.

Docket Number: 86-325. Applicant: Research Institute of Scripps Clinic, La Jolla, CA 92037. Instrument: Cryo Microtome, Sledge Type, Model LKB #2250-041. Manufacturer: Palmstiernas Mekaniska Verkstad AB, Sweden. Intended use: See notice at 51 FR 36738, October 15, 1986. Reasons for this decision: The foreign instrument can cut large (450 × 150 millimeter) tissues specimens with uniform thickness over a range of 1.0 to 999 micrometers. Advice submitted by: National Institutes of Health, January 15, 1987.

Docket Number: 86-323. Applicant: Mt. Sinai School of Medicine of the City University of New York, New York, NY 10029. Instrument: Micromanipulator, Model PM20H. Manufacturer: Biomedizinische Instrumente, West Germany. Intended use: See notice at 51 FR 37057, October 17, 1986. Reasons for this decision: The foreign instrument provides controlled impalement and rapid advancement (to 25 micrometers per millisecond) of individual cells. Advice submitted by: National Institutes of Health, January 15, 1987.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health and National Bureau of Standards advise in the respectively cited memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to the each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.,

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-6376 Filed 3-23-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-607]

Postponement of Preliminary Antidumping Duty Determination: Certain Silica Filament Fabric from Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioners in this investigation to postpone the preliminary determination as permitted by section 733 (c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Based on this request, we are postponing our preliminary determination as to whether sales of certain silica filament fabric from Japan have occurred at less than fair value until not later than May 6, 1987.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, (202) 377-5288, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On November 21, 1986 (51 FR 42121), we announced the initiation of an antidumping duty investigation to determine whether certain silica filament fabric from Japan are being, or are likely to be, sold in the United States at less than fair value. The notice stated that we would issue a preliminary determination by April 6, 1987.

As detailed in that notice, the petition alleged that imports of certain silica filament fabric from Japan are being, or are likely to be sold in the United States at less than fair value. On March 12, 1987, counsel for petitioners, the Haveg Division of Amerek, Inc. and HITCO, requested that the Department extend the period for the preliminary determination until not later than 190 days after the date of receipt of the petition in accordance with section 733(c)(1) of the Act. Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than May 6, 1987.

This notice is published pursuant to section 733(c)(2) of the Act.

March 18, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-6377 Filed 3-23-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Permits; Foreign Fishing; Douglas G. Marshall, et al.

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. *et seq.*) Send comments on application to:

Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 320 South New Street, Dover, DE 19901, 302/674-2331

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-4366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753-4926

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Building, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907/274-4563

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368

For further information contact John D. Kelly or Shirley Whitted (Fees, Permits, and Regulations Division, 202-673-5319).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register.** The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice of behalf of the Secretary of State.

Individual vessel applications for fishing in 1987 have been received from the Governments shown below.

Dated: March 19, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional Fishery Management Councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code:

1..... Catching, processing and other support.
2..... Processing and other support only.
3..... Other support only.
*..... Vessel(s) in support of U.S. vessels joint venture.
**..... Cargo transport vessels with fish finding equipment on board will receive an activity code 2 to enable them to perform both scouting as well as support activities.

Nation, vessel name, vessel type	Application number	Fishery	Activity
Government of the People's Republic of China			
Yan Yuan No. 2, factory ship.	CH-87-0006	BSA, WOC, GOA	*1 *2
Government of the German Democratic Republic			
Evershagen, cargo/transport vessel.	GC-87-0027	NWA	3
Government of Japan			
Atago Maru, cargo/transport vessel.	JA-87-0195	BSA, GOA, NWA, SNA.	3
Naniwa Maru No. 36, tanker fuel/water.	JA-87-0596	BSA, GOA, SNA	3
Ryoun Maru No. 6, pot fishing vesel.	JA-87-0850	SNA	1
Uno Maru No. 8, cargo/transport vessel.	JA-87-1032	BSA, GOA, NWA, SNA.	3
Eikyu Maru No. 75, small stern trawler.	JA-87-1541	BSA	1
Government of the Republic of Korea			
Ocean Express, cargo/transport vessel.	KS-87-0142	BSA, GOA	3
Shiga Maru, cargo/transport vessel.	KS-87-0143	BSA, GOA	3
Khana, cargo/transport vessel	KS-87-0145	BSA, GOA	3

Nation, vessel name, vessel type	Application number	Fishery	Activity
Government of the Kingdom of the Netherlands			
Friesland, large stern trawler.	NL-87-0031	NWA	*1
Geertruid Margreta, medium stern trawler.	NL-87-0032	NWA	*1
Government of the Polish People's Republic			
Altair, large stern trawler.	PL-87-0115	BSA, WOC, GOA	*1 *2
Kociewie, reefer/ transport vessel.	PL-87-0116	BSA, GOA, NWA, WOC.	3
Union of the Soviet Socialist Republics			
Aleksandr Ivanov, cargo/ transport vessel.	UR-87-0675	NWA	3
Mys Lazareva, large stern trawler.	UR-87-0013	BSA, GOA	*2
Mys Svobodnyi, large stern trawler.	UR-87-0544	BSA, GOA	*2
Paudzha, large stern trawler.	UR-87-0704	BSA, GOA	*1
Tatarstan, cargo/ transport vessel.	UR-87-0803	BSA, GOA, WOC	3
Serebriannyi, cargo/ transport vessel.	UR-87-0797	BSA, GOA	3
Soiuz-5, large stern trawler.	UR-87-0235	BSA, GOA	*1

Joint Venture

The Governments of the People's Republic of China, the Polish People's Republic and the Union of Soviet Socialist Republics have submitted permit applications to engage in joint venture activities in the Washington, Oregon, and California Trawl (WOC) fishery during 1987. The following table summarizes their requests:

THE WASHINGTON, OREGON, AND CALIFORNIA TRAWL FISHERIES (WOC) PACIFIC HAKE REQUEST
[In metric tons]

Country	Directed	Joint venture	American partner
China	10,000	5,000	Undetermined.
Poland	66,000	53,500	(1)
U.S.S.R.		45,000	Marine Resources Co., International.

[1] Polish partners in Seattle, WA, are Profish International Inc. and Alaska Pacific International Ltd. and in Coos Bay, OR, Quest Export Trading Co.

[FR Doc. 87-6381 Filed 3-23-87; 8:45 am]
BILLING CODE 3510-22-M

Intent To Prepare Draft Environmental Impact Statement and Management Plan for the Proposed Great Bay Estuarine Research Reserve

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Section 315 of the Coastal Zone Management Act of 1972, as amended, provides for Federal matching grants for states developing and managing a national system of estaurine research reserves which are representative of the various regions and estuarine types in the United States. These sites must meet several criteria in order to be established. They must provide opportunities for long-term research, education and interpretation; provide a basis for more informed coastal management decisions and promote public awareness and understanding of an estuarine environment.

The Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atomspheric Administration (NOAA) intends to prepare a draft environmental impact statement and management plan (DEIS/MP) on a proposed estuarine research reserve in the Great Bay Estuary located in New Hampshire in accordance with the guidelines for management of estuarine research reserves in 15 CFR Part 921. The Great By Estuarine Research Reserve (GBERR) encompasses five key land and water areas around the estuary. The water portion will include all of Great Bay, the small channel from the Winnicut River and the larger channels from the Squamscott and Lamprey Rivers which meet in the center of the Bay to form a main channel which connects to Little Bay at Adams Point. The shoreline and upland portions will include sites in the towns around the estuary, ranging in size from 1 to 250 acres.

Discussion

The estuarine research reserve proposal is currently being developed in consultation with the State of New Hampshire, Federal agencies, and affected public groups. Negotiation with those private landowners interested in placing some type of protected property covenant on their land will take place during the project. Establishing a GBERR will ensure cooperative program efforts to manage the natural, cultural, historic and aesthetic resources of Great Bay.

The views and comments during this phase will aid NOAA in determining: (1) The purposes and objectives for management; (2) the scope and content of the management plan, and (3) the alternatives to the proposed actions including the degree to which the alternative may affect the natural and human environment. The DEIS will be prepared in accordance with the Council on Environmental Quality requlations, 43 FR 55978 (November 24, 1978).

For further informatin, please contact Annie Hillary, Marine and Estuarine Management Division, OCRM/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (202/673-5122).

Federal Domestic Catalogue No. 11420, Estuarine Research Reserve Program Administration)

Dated: March 19, 1987.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87-6392 Filed 3-23-87; 8:45 am]
BILLING CODE 3508-08-M

COMMODITY FUTURES TRADING COMMISSION

New York Futures Exchange; Proposed Amendments Relating to NYSE Composite Index Futures Contract; Option

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Futures Exchange ("NYFE" or "Exchange") has submitted a proposal to amend its NYSE (New York Stock Exchange) Composite Index futures contract and its option on the NYSE Composite Index futures contract. The amendments to the NYSE

Composite Index futures contract would change the final settlement price for the contract from the closing quotation of the NYSE Composite Index as of the third Friday of the delivery month to a special quotation of the Index based on the opening prices of the component stocks in the Index as of the third Friday. In addition, the amendments would change the last day of trading for both the NYSE Composite Index futures contract and the option on that contract from the third Friday of the delivery month to the preceding business day.

In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 8, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the NYFE NYSE Composite Index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 (202) 254–7303.

SUPPLEMENTARY INFORMATION: According to the NYFE, the proposed amendments will serve the public interest by diminishing stock price volatility at the time of futures expiration. The Exchange bases this view on its belief that the opening procedures on the New York Stock Exchange enable NYSE specialists to handle large order imbalances without the strains caused when such imbalances occur at the close.

The proposed amendments would not apply to existing positions. Rather, the Exchange has proposed that these amendments be made effective after Commission approval for only those contracts which have been initially listed pursuant to these revised specifications, including all newly listed contract months. In this regard, the Exchange has noted that it intends to list under the revised specifications those contract months which are currently trading (June, September, and December 1986) and that these newly listed contracts will trade simultaneously with those currently listed. However, at such time as there is no open interest in the currently listed specifications for June, September and December 1987 trading months, the Exchange intends not to permit further trading in such contract months.

The Commission is seeking comment not only on the amendments themselves but also on the NYFE's plan of implementation.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC , by April 8, 1987.

Issued in Washington, DC, on March 19, 1987.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87–6327 Filed 3–23–87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Impact Statement; Ground Based Free Electron Laser Technology; Availablity

AGENCY: Department of the Army, Strategic Defense Command—Huntsville, DOD.

ACTION: Notice.

SUMMARY:

Record of Decision Available on Ground Based Free Electron Laser Technology Intergation Experiment

The site selection decision for the Ground Based Free Electron Laser Technology Integration experiment has been made. The Orogrande site at White Sands Missile Range has been chosen. In accordance with Council on Environmental Quality regulations, a Record of Decision has been prepared and is available from the US Army Strategic Defense Command (DASD–H–F), P.O. Box 1500, Huntsville, Alabama 35807–3801.

DATES: Record of Decision signed on 3 March 87, no expiration date.

ADDRESS: US Army Strategic Defense Command, ATTN: DASD–H–F, P.O. Box. 1500, Huntsville, Alabama 35807–3801.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Frank Chapuran, AC, 205–895–3926.

Pamela L. Thompson,

Alternate Liaison Officer for the Federal Register.

[FR Doc. 87–6414 Filed 3–23–87; 8:45 am]

BILLING CODE 3710-08-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Northern California Streams, Dry Creek, CA, Interim Investigation

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Action:* Alternative flood control measures are being studied in a feasibility investigation for Dry, Cirby, and Linda Creeks within the Dry Creek Basin. The study area is located in the corporate limits of the city of Roseville, California. The basin is about 143 square miles in area and located in the southeastern part of the Sacramento Valley in Sacramento, Placer, and Sutter counties, California. The basin consists of Dry Creek, several tributary streams and the Natomas East Main Drainage Canal (NEMDC). The NEMDC, a unit of the Sacramento River Flood Control Project, receives the Dry Creek flows.

Flooding has occurred twice within the last four years in and around the city of Roseville and the community of Rio Linda. The most serious damages occurred during the February 1986 flood event. The damages were estimated to exceed $18 million. Flood problems result from excess runoff that overflows onto lands adjacent to inadequate drainage channels and from high Sacramento River stages that cause backwater flooding.

The proposed action includes channel improvements along lower Cirby and Linda Creeks, and upper Dry Creek. Channel improvements would include a combination of earthen trapezoidal, concrete rectangular and one-sided

channels, and floodwalls. Use of the one-sided channel is to preserve existing riparian vegetation by limiting excavation to one bank. Floodwalls would be used in areas of limited right-of-way.

2. *Alternatives:* Three alternative plans will be addressed in the DEIS. These include: (1) No Action; (2) the tentatively selected plan featuring one-sided channels and floodwalls; and (3) earthen and concrete channelization. Plans eliminated from further study in the earlier reconnaissance level of investigation will also be discussed.

3. *Scoping of the DEIS:* Close coordination is being maintained with Federal, State, and local agencies, conservation organizations, and concerned individuals. Information will be provided to interested parties concerning studies which evaluate potential impacts to fish and wildlife resources, water quality, proposed mitigation measures and other resources. The impacts to wildlife populations and habitat have been analyzed, in coordination with the U.S. Fish and Wildlife Service, using the Habitat Evaluation Procedures. A mitigation plan will be developed based on incremental analysis which will combine the most cost-effective measures to reach the mitigation goal. Recreation facilities to provide for public use of the improved channels are also being studied.

A public meeting will be held after release of the DEIS. This meeting will be publicized by general announcement as well as by written invitation to all interested parties. Comments received as a result of this notice will be used to assist in identifying and evaluating significant resources and impacts of the proposed project described in the DEIS.

4. *Scoping Meetings:* An initial scoping meeting was held by the city of Roseville and U.S. Army Corps of Engineers on August 12, 1986, in Roseville, California. The tentative plan for flood control and study schedule was explained. Questions were answered and comments received. Questions and concerns centered on immediate and long-term solutions to flooding in light of the 1986 flood. The "Friends of the Roseville Parkway" organization has held periodic meetings in the interest of promoting the parkway concept and preservation of the riparian habitat.

5. *Estimated date for release of the DEIS:* The DEIS is scheduled to be circulated for public review and comment in September 1987.

ADDRESS: Correspondence concerning this project and the DEIS should be addressed to Colonel Wayne J. Scholl, District Engineer, ATTN: Planning Division, Sacramento District Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814–4794. Questions concerning the proposed action and the draft document can be answered by Mike Welsh at (916) 551–1861 or FTS 460–1861.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87–6263 Filed 3–23–87; 8:45 am]

BILLING CODE 3710–GH–M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Maintenance Dredging and Confined Disposal for Waukegan Harbor in Lake County, IL

AGENCY: U.S. Army Corps of Engineers, Chicago District, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. The proposed project involves the construction, operation and maintenance of a confined disposal facility to contain dredge material from Waukegan Harbor classified as unsuitable for open lake disposal. Approximately 188,000 cubic yards of material would be dredged over a one-year period. The preferred site for disposal of polluted sediments is located in Lake Michigan, along the shoreline immediately south of Waukegan Harbor.

2. The alternatives being considered are as follows:

a. No action.

b. Dredging and disposing materials at site 4, an 80-acre farm field bordered by Route 131 and 9th Street directly west of Winthrop Harbor. Approximately 20 acres of the 80-area site would be required. An impermeable dike would be constructed of earthen material with clay liner.

C. Dredging and disposing material at site 9, 15–acre lake site in Lake Michigan just south of Waukegan Harbor. Two dike designs will be considered at this site: A permeable dike with a filter cloth and sand core designed to filter effluent into Lake Michigan and an impermeable dike containing a slurry wall.

3. Site selection and other aspects of the project have been coordinated with the U.S. Fish and Wildlife Service, Illinios Department of Conservation, Illinois Endangered Species Protection Board, State Historic Preservation Officer, U.S. Environmental Protection Agency, Ilinois Environmental Protection Agency, Waukegan Port Authoirty, the City of Waukegan, Lake County and local industries. Future public involvement will include continued interagency coordination and meetings with interested parties.

4. Significant issues yet to be analyzed include the potential for degradation of groundwater and surface water quality, impacts on terrestrial and aquatic communities, and a determination of a local sponsor and future use of the disposal facility.

5. No formal scoping meeting will be held.

6. The DEIS is expected to be available to the public at the end of 1987.

7. Questions concerning the proposed project and DEIS can be directed to Mr. Paul Whitman, U.S. Army Corps of Engineers, Chicago, District, Environmental and Social Analysis Branch, 219 South Dearborn Street, Chicago, Illinois 60604. Mr. Witman's phone number is 312/353–7795.

Frank R. Finch, P.E,

LTC, Corps of Enginners, District Engineer.

[FR Doc. 87–6311 Filed 3–23–87; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF ENERGY

Fossil Energy; Cooperative Research and Development Ventures; Regional Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Department of Energy's Office of Fossil Energy (DOE/FE) is announcing the continuation of its series of regional meetings following up on the national meeting (which was held in Denver, Colorado, on December 3, 1986) to explore in more detail and with additional potential partners a number of issues on the subject of cooperative cost-shared research and development (R&D) ventures with the U.S. private sector, states and/or other interested participants.

The DOE/FE is particularly interested in learning which R&D technology areas are of most interest to poetntial private sector participants; what operating and procedural characteristics interested parties would like to see in cooperative R&D ventures, including what relaxations in federal operating procedures affecting reporting, oversight and managment would make these ventures more attractive to potential project participants; and the types of R&D activity viewed as most amenable

to the use of this approach. These and other related issues are to be explored in the meetings both through plenary sessions and interactive small group working sessions.

Participants in the earlier regional meeting, held in San Francisco, California, on February 18, 1987, suggested that DOE/FE should proceed with a targeted solicitation for cooperative R&D ventures which would focus on two or three specific opportunity areas. Such opportunity areas could be developed in terms of mission objectives that would cut across technology and/or resource lines and clearly be adjunct to the DOE/FE ongoing mainline R&D program. Examples of such opportunity areas for cooperative R&D ventures might be one or more of the following:

- Enhancing the capability and economic attractiveness of expanding the use of coal in the industrial sector of the economy;
- Increasing the U.S. fossil energy resource base for economically attractive liquid and gaseous fuels;
- Developing new market opportunities for U.S. coal exports in combination with coal utilization technology, including applications in developing and/or newly industrialized countries;
- Improving technology in supporting areas of the overall utilization chain for fossil fuels (such as fuel transportation, solid waste management, and/or by-product recovery and utilization); and
- Crosscutting technology advances in discipline-oriented areas (such as geosciences, biotechnology, or process control technology in the context of fossil energy applications).

DOE/FE is interested in discussion of this approach, using the above illustrations and others to be developed for consideration at the meetings. The discussion would seek to elicit participants' views on the merits and problems inherent in the approach, critique of the examples provided, and definition of other possibly more desirable or attractive formulations.

Potential participants unable to attend one of the meetings may also communicate their views in writing at the address given below. Such communications may suggest additional arrangements, tailored to address DOE/FE R&D needs. These needs, as preceived by DOE/FE, and described both in the **SUPPLEMENTARY INFORMATION** section and in additional information available from DOE, upon written request.

DATES: Written comments should be submitted no later than April 14, 1987. The second of these public meetings will be held at 9:00 a.m. on April 21, 1987, in Chicago, Illinois and the third meeting will be held at 9:00 a.m. on April 28, 1987, in Charleston, West Virginia. (Expressions of interest in attending the regional public meetings, obtaining the additional information for comment, participating in discussion, and/or making a statement at the meetings should also be submitted to DOE/FE at the address given below, on or before April 14, 1987.)

ADDRESSES: For submission of comments: Cooperative R&D Ventures, David S. Jewett, Director, Business Operations and External Affairs, Office of Management, Fundamental Research and Cooperative Development, FE–10, A–117, Office of Fossil Energy, U.S. Department of Energy, Washington, DC 20545, (301) 353–2618, Telex No. (301) 353–5465.

The Second regional public meeting will be held April 21, 1987 at: Palmer House, 17 East Monroe Street, Chicago, Illinois 60690, (312) 726–7500.

The third regional public meeting will be held April 28, 1987 at: Holiday Inn, 600 Kanawa Boulevard, East, Charleston, West Virginia 25301, (304) 344–4092.

FOR FURTHER INFORMATION CONTACT: Cooperative R&D Ventures, David S. Jewett, Director, Business Operations and External Affairs, Office of Management, Fundamental Research and Cooperative Development, FE–10, A–117, Office of Fossil Energy, U.S. Department of Energy, Washington, DC 20545, (301) 353–2618, Telex No. (301) 353–5465.

SUPPLEMENTARY INFORMATION: In the face of heightened international competition, U.S. firms are increasing the leveraging of their resources in technology development through the use of cooperative R&D ventures. The polling of knowledge and resources, inherent in this approach, enables a broader base of technology and funds to be targeted to industry-wide problems. The likelihood of success in these ventures is enhanced by the private sector's ability to discover jointly and exploit the full commercial value of basic and applied research, including the fundamental research and technology development to translate basic concepts into potential market opportunities.

The DOE/FE is exploring the use of related concepts for cooperative fossil energy R&D ventures. The DOE/FE is interested in advances in all areas of technology and approaches that could be effectively applied to the expanded use of the vast variety of U.S. domestic fossil resources including, specifically, coal, oil, gas and shale. The cooperative arrangements to be explored may combine government funding, technical talent, and laboratory resources with private resources (including those of the states) in a manner that may alleviate some of the risks of energy-related entrepreneurship, while leaving technical and commercial leadership in the hands of the private sector. This Federal-private sector partnership may simultaneously enhance the use of domestic resources and domestic scientific and technical talent, leading to an increased number of U.S. jobs, as well as increased availability of domestic resources for U.S. energy strength and needs.

The DOE/FE intends to be open and flexible in its approach to each potential venture, particularly as to issues concerning the extent of future government support, patent rights, and contracting and reporting requirements. Private sector comment regarding desirable flexibilities is being sought under this notice. Should existing authorities require modification to increase responsiveness to such comments, DOE is prepared to consider both the appropriateness and the potential costs and benefits of seeking such modification. Additional information which develops and explores joint venture concepts in greater detail has been prepared by DOE/FE and is available, upon written request, at the address given in the **"FOR FURTHER INFORMATION CONTACT"** section above.

Issued at Washington, DC, on March 12, 1987.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 87–6316 Filed 3–23–87; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: American Statistical Association Committee on Energy Statistics.

Date and Time: Thursday, April 23, 1987, 1:30 p.m.–5:30 p.m. Friday, April 24, 1987, 9:00 a.m.–2:30 p.m.

Place: Georgetown Marbury Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact: Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI–74,

Washington, DC 20585, Telephone: (202) 586–2088.

Purpose of Committee

To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, April 23, 1987

A. Opening Remarks
B. Major Topics:
1. Crude Oil Production Volumes
2. Measuring Changes in the Petroleum Market
3. Oil and Gas Integrated Field file (Public Comments)

Friday, April 24, 1987

4. Energy Statistics Program at the Bureau of Labor Statistics
5. Financial Analysis of Investor-Owned Electric Utilities
6. Financial Reporting System
7. EIA Forecasting Models on Floppy Disks: A Prototype
8. Model Verification Example (Public Comments)

C. Topics for Future Meetings

Public Participation

The meeting is open to the public. The chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above. Requests must be received at least five days prior to the meeting. Reasonable provisions will be made to include such presentations on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room (Room 1E–190), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6025, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Issued at Washington, DC, on March 18, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–6389 Filed 3–23–87; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 86–64–NG]

Fiscus Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Fiscus Inc. (Fiscus) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 86–64–NG authorizes Fiscus to import up to 250 Bcf of Canadian gas over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, March 13, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–6317 Filed 3–23–87; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: April 22, 1987—9:00 a.m.—5:00 p.m., April 3, 1987—9:00 a.m.—5:00 p.m.

Place: Building 50–A, Room 5132, University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, California 94702.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–11), Office of Energy Research, Washington, DC 20545, Telephone: 301/353/3081.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

TENTATIVE AGENDA: Briefings and discussions of:

April 22, 1987

- BES information.
- Reports from BESAC Information Groups.
- Public Comment (10 minute rule).

April 23, 1987

- Discussion of Overall BES Issues.
- Next Meeting.
- Scientific Reports from LBL.
- Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the Public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on March 17, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–6321 Filed 3–23–87; 8:45 am]

BILLING CODE 6450–01–M

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date & Time: April 10, 1987 from 9:00 a.m. to 6:00 p.m.

Place: Brookhaven National Laboratory, Berkner Hall, Room B, Upton, New York 11973.

Contact: John R. Erskine, Division of Nuclear Physics, U.S. Department of Energy, Washington, DC 20545, (301) 353–3613.

Purpose of the Committee

To advise the Department of Energy and the National Science Foundation on the scientific priorities within the field of basic nuclear science research.

Tentative Agenda

- Report on the budgets and status of the NSF nuclear physics program
- Report on the budgets and status of the DOE nuclear physics program
- Report of the Manpower Subcommittee
- Status report on the Subcommittee on Nuclear Theory
- Public comment

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact John Erskine at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

Available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on March 17, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–6322 Filed 3–23–87; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA C&E–87–29; OFP Case No. 61068–9357–29–29]

Acceptance of Petition for Exemption and Availability of Certification by Chalk Cliff Cogen, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance.

SUMMARY: On March 4, 1987, Chalk Cliff Cogen, Inc. (Chalk Cliff Cogen or petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for its Chalk Cliff Cogen Project to be located 35 miles southwest of Bakersfield, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 8, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Docket No. ERA C&E–87–29 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–093, Washington, DC 20585, Telephone (202) 586–4708

Steven E. Ferguson, Esq. Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 586–6947

SUPPLEMENTARY INFORMATION: Chalk Cliff Cogen Proposes to finance, construct, and operate a 46 MW gas fired combined cycle facility near Bakersfield, California which will be on leased premises within the Cities Service Oil and Gas Corporation. Thermal energy will be sold to Cities Oil and Gas Corporation for use in enhanced oil recovery operations and the electric power to the Pacific Gas and Electric Company.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), the petitioner has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

On May 22, 1986, DOE published in the **Federal Register** (51 FR 18866) a notice of the amendment to its

guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of a cogeneration FUA permanent exemption, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. The petitioner has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of General Counsel, will review the completed environmental checklist submitted by the petitioner pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on the petitioner's petition that the grant or denial of exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 16, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6318 Filed 3-23-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-30; OFP Case No. 67055-9342-21-24]

Acceptance of Petition for Exemption and Availability of Certification by South Jersey Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, South Jersey Energy Associates (South Jersey or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility. The facility consists of a combined cycle unit to be located in Williamstown Junction, New Jersey, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petiton appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this notice of Acceptance and Availability of Certification as well as other documents and supporting material on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 8, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-30 shall be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricty Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586-6947

SUPPLEMENTARY INFORMATION: This project is a 140 MW electric generating facility consisting of one gas-fired turbine generator, one recovery steam generator and one steam driven turbine generator.

The petitioner proposes a cogeneration facility to be known as the Williamstown Junction Cogeneration Project and to be located in Williamstown Junction, New Jersey. Steam produced by the facility will be used by Formigli Industry and electrical power generated will be sold to Atlantic Electric.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 16, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6319 Filed 3-23-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI87-287-000]

Art Machin and Associates, Inc.; Notice of Application for Limited-Term Abandonment Until February 1, 1988, and for Permanent Abandonment Thereafter

March 18, 1987.

Take notice that on February 4, as supplemented on February 26, 1987, Art Machin & Associates, Inc., P.O. Box 2999, Longview, Texas, 75606 (Machin), a small producer certificate holder in Docket No CS71-1133, filed an application for limited-term abandonment until February 1, 1988, and for permanent abandonment thereafter. Machin's gas is NGPA section 104 gas produced from the G.A. Kelly #1 Well in Willow Springs Field, Gregg County, Texas. The last effective rate according to the application is 69.18¢ per Mcf at 14.73 psia. The gas is dedicated to United Gas Pipe Line Company (United) under a June 10, 1968, contract which Machin states is scheduled to expire on February 1, 1988.

In support of its application Machin states it is subject to substantially reduced takes without payment. The well has a deliverability of 350 Mcf/d and the contract requires United to take 80% of deliverability. However, during 1986, United's takes averaged approximately 181 Mcf/d or approximately 50% of deliverability. United agreed by letter agreement dated July 19, 1986, to a limited-term release of excess gas until the contract terminates and Machin released United from take-or-pay obligations under the contract. Machin intends to sell the released gas to an intrastate purchaser or purchasers.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6298 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-345-000]

Primos Production; Application

March 18, 1987.

Take notice that on March 2, 1987, Primos Production ("Primos") or ("Applicant"), Post Office Drawer 2066, Monroe, Louisiana 71207, filed an application pursuant to section 7(b) of the Natural Gas Act for: (1) Authorization to permanently abandon sales of gas from the Monroe Field in Morehouse, Ouachita and Union Parishes, Louisiana, to Southern Natural Gas Company ("Southern); and (2) per-granted abandonment authorization for a term of three years following the effective date of the permanent abandonment, to accommodate Primos' planned sales under short-term contracts.

The gas subject to this application has been sold by Primos, a small producer certificate holder in Docket No. CS76-1142, pursuant to a contract executed April 1, 1950. The wells have a combined deliverability of 3,695 MCF per day, of which 3,630 MCF is NGPA section 108 gas, 64 MCF is NGPA Section 104 gas, and 1 MCF is NGPA section 109 gas. Some of the wells are produced by Primos and some are produced by third parties with which Primos has gas purchase contracts.

On November 18, 1985, Primos and Southern entered into a settlement agreement providing that at the earlier of such time as Southern has taken and paid for 6,564,000 MCF of gas or May 18, 1987, their gas purchase contract shall terminate and the gas shall be permanently released for sale to alternative purchasers. Primos requests that the permanent abandonment authorization for sales to Southern become effective upon termination of the the contract with Southern.

Primos further requests that the Commission consider the application on an expedited basis in accordance with 18 CFR 2.77(a) and Order No. 436 issued in Docket No. RM85-1-000. The parties have entered into ta take-or-pay buy-out pursuant to 18 CFR 2.76, and it is expected that the wells will be shut-in without payment for supplies not taken upon termination of the contract with Southern.

Any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register** file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6299 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-34-000]

TransTexas Pipeline; Petition for Adjustment

March 18, 1987.

On December 22, 1986, TransTexas Pipeline (TransTexas) filed with the Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). TransTexas seeks an adjustment from § 284.123(b)(1)(i)(B) so that the company can use existing intrastate transportation rates as the applicable rates for transportation under section 311 of the NGPA. TransTexas states the rate was established using a cost-of-service methodology and is part of a tariff filed with the Railroad Commission of Texas (RRC).

TransTexas, a joint venture between Valero Energy Corporation (Valero) and Northern Texas Intrastate Pipeline Company (NorTex), an affiliate of Enron Corporation, states it has two gas transportation contracts with Valero, one in intrastate commerce and one pursuant to section 311 of the NGPA. TransTexas states it is currently negotiating transportation contracts with Enron affiliates for both intrastate and section 311 type transportation. According to TransTexas, the rates under the negotiated contracts will be identical to the rates charged in the Valero contracts. TransTexas has no city-gate sales rate by which it could satisfy the requirements of § 284.123(b)(1)(i)(B) of the Commission's regulations, and thus TransTexas seeks and adjustment in order to use its existing cost-based rate currently on file with the RRC. According to TransTexas, this rate is calculated using a cost-of-service methodology and is utilized for both intrastate and section 311 transactions. TransTexas has filed a request with the RRC to issue a determination that the rates are in fact cost based. TransTexas states that an adjustment from the Commission's regulations is necessary to prevent special hardship and inequities that would result from requiring TransTexas to initiate a rate determination proceeding for each of its section 311 transactions.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure [18 CFR 385.1101 *et seq.* (1986)]. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with this provision of Subpart K within 15 days after publication of this notice in the **Federal Register.** TransTexas' petition is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6300 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-354-000]

Vintage Petroleum, Inc.; Application for Limited-Term Abandonment With Pregranted Abandonment for Sales Under Small Producer Certificate

March 18, 1987.

Take notice that on March 9, 1987, Vintage Petroleum, Inc. (Vintage), 502 S. Main Mall, Suite 400, Tulsa, Oklahoma, 74103 has filed an application under section 7(b) of the Natural Gas Act and § 2.77 of the Commission's rules. Vintage requests that the Commission issue an order granting Vintage (1) three-year limited-term abandonment to El Paso Natural Gas Company (El Paso) of certain gas which is subject to NGA jurisdiction from the well designated as Hudson Federal No. 1, Golden Lane Field, Eddy County, New Mexico, and (2) blanket pregranted authorization for a limited-term of three (3) years for any future sales of such gas under its small producer certificate issued in Docket No. CS84-61-000. Vintage states that it is subject to substantially reduced takes without payment. The Hudson Federal No. 1 well has a deliverability of approximately 539 MCFD and the well produces NGPA section 104 1973-1974 biennium gas.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register,** file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary

[FR Doc. 87-6301 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-229-000 et al.]

K N Energy, Inc., et al.; Natural Gas Certificate Filings

March 18, 1987.

Take notice that the followings filings have been made with the Commission:

1. K N Energy, Inc.

[Docket No. CP87-229-000]

Take notice that on March 5, 1987, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP87-229-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that K N be allowed to construct and operate sales taps for the delivery of gas to end users under authorization issued in Docket Nos. CP83-140-000, CP83-140-001 and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

K N proposes the construction and operation of sales taps to various end users located along its jurisdictional pipelines in Kansas and Nebraska. K N states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps would have no significant impact on K N's peak day and annual deliveries. K N further states that the gas delivered and sold by K N to the various end users would be priced in accordance with the currently filed rate schedules authorized

by the applicable state or local regulatory body having jurisdiction.

Comment date: May 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

Texas Gas Transmission Corp.

[Docket No. CP87-217-000]

Take notice that on February 24, 1987, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 43202, filed in Docket No. CP87-217-000 a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new sales delivery point for Columbia Gas Transmission Corporation (Columbia) in Warren County, Ohio, under the certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, the delivery of sale gas to Columbia would be delivered by Texas Gas directly to Texas Eastern Transmission Corporation (Texas Eastern) at the Texas Eastern/Lebanon station in Warren County, Ohio, for Columbia's account, it is explained. Texas Eastern would redeliver to Columbia at various points in the State of Pennsylvania, it is asserted.

Texas Gas estimates the proposed annual maximum quantity of natural gas for sale and delivery to Columbia Gas at the new delivery point to be 17,120 billion Btu equivalent of gas, with daily maximum quantity (DMO) estimated at 80 billion Btu equivalent. It is anticipated that the DMQ would be purchased primarily during April 16 and November 15 of each year. Texas Gas states that additional deliveries through the proposed new delivery point during the remainder of the year would be transported by Texas Eastern and delivered to Columbia Gas on a best-efforts basis.

Comment date: May 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. El Paso Natural Gas Co.

[Docket No. CP87-213-000]

Take notice that on February 18, 1987, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP87-213-000, a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to install and operate a sales meter station, to be located in Dona Ana County, New Mexico, in order to permit the continued delivery of natural gas to Gas Company of New Mexico (Gas Company) for resale to the White Sands Proving Ground, Holloman Air Force Base, and the community of Alamogordo, New Mexico and environs, in Dona Ana and Otero Counties, New Mexico, under authorization issued in Docket No. CP82-435-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states in its request that it presently sells and delivers natural gas to Gas Company for distribution and resale to consumers situated in various communities and area in the state of New Mexico, pursuant to a service agreement dated February 1, 1970 (service agreement).

The request for authorization further states that El Paso filed on December 30, 1986, in Docket No. CP87-147-000 for permission and approval pursuant to section 7(b) of the Natural Gas Act, to abandon by conveyance to Gas Company certain compression, pipelines, metering and tap facilities, with appurtenances, referred to as the Alamogordo System, commencing in Dona Ana County, New Mexico and terminating in Otero County, New Mexico. It is explained that upon grant of the permission and approval sought in Docket No. CP87-147-000, the Alamogordo System, when acquired, owned and operated by Gas Company, would become a part of Gas Company's integrated distribution system and can be more conveniently operated and maintained by Gas Company. It is further stated that the proposed conveyance would permit El Paso to measure and make deliveries of natural gas to Gas Company at a single new point rather than at several points along or at the terminus of the Alamogordo System, thus giving El Paso a more precise degree of control of such deliveries. It is stated that the necessary master sales metering facilities are not now existing, which would permit El Paso to measure and make deliveries to Gas Company at a single point. El Paso therefore proposes to install and operate a new master meter station to continue to provide the existing natural gas service to Gas Company for use in the Alamogordo System. The existing service provided by the Alamogordo System includes residential and commercial natural gas requirements of the White Sands Proving Ground, Holloman Air Force Base, and the community of Alamogordo, New Mexico, and environs coincident with the transfer of ownership and operating responsibility for the Alamogordo System to Gas Company.

In order to accommodate the previously described goals of El Paso and to facilitate the operational implementation of the conveyance of the Alamogordo System, El Paso proposes to install a sales meter station, consisting of two 6⅝-inch O.D. standard orifice-type meters, with appurtenances, at a point of interconnection of El Paso's existing 26-inch O.D. California Line, 30-inch O.D. California Fist Loop line, Waha Plant to Ehrenberg Line and the existing 6⅝-inch O.D. Alamogordo Pipeline in Dona Ana County, New Mexico. The volumes of natural gas to be sold to Gas Company at the proposed sales meter station would be delivered at a pressure of 773 psig. The quantity of natural gas to be sold to Gas Company for resale to the White Sands Proving Ground, Holloman Air Force Base, and the community of Alamogordo, New Mexico and environs would not exceed the maximum level of volumes set forth under the currently effective service agreement.

El Paso states that the quantities of natural gas to be delivered would be sold by El Paso to Gas Company for resale to the White Sands Proving Ground, Holloman Air Force Base, and the community of Alamogordo, New Mexico, and environs, in order to accommodate the existing Priority 1, 2, and 3 requirements. The Priority 1, 2, and 3 load requirements, for use at the Alamogordo Master Meter Station, would not alter Gas Company's entitlements under El Paso's Permanent Allocation Plan. In addition, since the sale of natural gas discussed herein constitutes the continuation of an existing sale, El Paso's request for the installation of the proposed Alamogordo Master Meter Station and the continued sale of natural gas to Gas Company would have no impact on the established high-priority load growth provisions set forth in section 11.5(b), *Growth Provision*, of the General Terms and Conditions contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1.

Comment date: May 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP87-239-000]

Take notice that on March 10, 1987, Williams Natural Gas Company (WNG), formerly Northwest Central Pipeline Corporation, P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP87-239-000 a request pursuant to § 157.205 of the Commission's

Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to abandon by reclaim measuring, regulating, and appurtenant facilities, and to abandon in place approximately 0.2 miles of 3-inch pipeline serving the Elmhurst Nursing Home (Elmhurst), in Jasper County, Missouri, and the transportation of gas through said facilities, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that Elmhurst has requested that the facilities be reclaimed since it has been indicated that Elmhurst has located an alternate supplier. WNG estimates the cost to reclaim at $2,560 with an estimated salvage value of $70. WNG also indicates that Elmhurst is the only customer served by the facilities to be abandoned.

Comment date: May 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6297 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-298-000 et al.]

Southern California Edison Company et el., Electric Rate and Corporate Regulation Filings

March 17, 1987.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Co.

[Docket No. ER87-298-000]

Take notice that, on March 9, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"):

Edison-Azusa
PGandE Firm Transmission Service Agreement

Under the terms and conditions of the Agreement, Edison will make available to Azusa firm transmission service for its purchases of nonintegrated capacity and energy from the Pacific Gas and Electric Company ("PGandE") to the Point of Delivery at Azusa Substation, Azusa, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: March 31, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER87-297-000]

Take notice that Pacific Power & Light Company, (Pacific), an assumed business name of PacifiCorp, on March 9, 1987, tendered for filing, in accordance with section 35 of the Commission's Regulations, Exhibit A, Revision No. 10, dated December 1, 1986 to the February 25, 1976 Transmission Agreement (Pacific's Rate Schedule FPC No. 123), between Pacific and Tri-State Generation and Transmission Association, Inc. (Tri-State).

Exhibit A to the Transmission Agreement is revised annually in accordance with Article 6(b) of the Agreement, and specifies the projected maximum integrated demand in kilowatts which Tri-State desires to have transmitted to the respective Points of Delivery for a four year rolling period.

Pacific respectfully requests, pursuant to § 35.11 of the Commission's Regulations, that a waiver of prior notice be granted and an effective date of September 30, 1986, be assigned. This date being consistent with the provisions of Article 6(b) of the Transmission Agreement.

Copies of the filing were supplied to Tri-State and the Wyoming Public Service Commission.

Comment date: March 31, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Arkansas Power & Light Co.

[Docket Nos. ER83-86-000, ER84-194-000 and ER87-208-000]

Take notice that on March 11, 1987, Arkansas Power & Light Company (AP&L) tendered for filing in accordance with the agreements between AP&L and the City of Hope, Arkansas, Cajun Electric Power Cooperative, Inc., and Louisiana Energy & Power Authority, a redetermined Transmission Demand Rate, along with revenue comparisons and support workpapers.

AP&L requests that the updated rate supersede the currently effective rate and become effective March 1, 1987, subject to refund, in accordance with the provisions of the agreements.

Comment date: March 31, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company.

[Docket No. ER87-295-000]

Take notice that on March 9, 1987, Idaho Power Company submitted for filing a Service Agreement between it and Sacramento Municipal Utility District, covering the sale of nonfirm energy under Idaho Power Company's 1st Revised FERC Electric Tariff, Volume No. 1. A waiver of the Commission's notice requirements is requested to allow the Service Agreement to become effective as of January 29, 1986.

Comment date: March 31, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Kentucky Utilities Co.

[Docket No. ER87-286-000]

Take notice that on March 9, 1987, Kentucky Utilities Company (Company) tendered for filing a letter agreement between Company and East Kentucky Power Cooperative (East KY.), which provides for an interconnection point between the two parties' systems. An Agreement between the parties dated January 13, 1970, which is on file with this Commission (Company Rate Schedule F.P.C. No. 96), provides for additional delivery points to be established as needs arise.

In the letter agreement, Company requests the effective date of May 30, 1987. Company's 161-69 KV Taylor County substation will be served by a tap from East Ky.'s Green County to Marion County 161 KV line near Saloma.

Company states that copies of the filing have been sent to East Ky. and the Public Service Commission of Kentucky.

Comment date: March 31, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 87-6296 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-15-002]

Mid Louisiana Gas Co.; Proposed Revision to PGA Filing

March 19, 1987.

Take notice that on March 10, 1987, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Fifty-Seventh Revised Sheet No. 3a, First Revised Fifth-Ninth Revised Sheet No. 3a, and First Revised Sixteenth Revised Sheet No. 3c, all to become effective May 1, 1987.

Mid Louisiana states that the purpose of the filing of these tariff sheets is to correct pagination errors contained in its filing of March 2, 1987, and to request a revised effective date of May 1, 1987. Mid Louisiana further states that the instant filing contains no revisions to the rates contained in the March 2, 1987 filing.

Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 26, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6368 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-47-000, 001]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

March 19, 1987.

Take Notice That on March 16, 1987, MIGC, Inc. tendered for filing copies of Forty-Second Revised Sheet No. 32, Alternate Forty-Second Revised Sheet No. 32 and Eleventh Revised Sheet No. 32-A to its FERC Gas Tariff Original Volume No. 1, as required by the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Forty-Second Revised Sheet No. 32, Alternate Forty-Second Revised Sheet No. 32 and Eleventh Revised Sheet No. 32-A provide for a Purchased Gas Adjustment rate increase of 0.81¢ per MMBtu effective May 1, 1987 in order (1) to provide for a current gas cost adjustment to permit MIGC to reflect the lower cost of gas purchases which it is currently incurring (Table II); (2) to provide for an adjustment to MIGC's Unrecovered Purchased Gas Cost Account as of January 31, 1986 and January 31, 1987 (Table III); (3) to recover carrying charges as permitted under FERC Order No. 47 (Table IV) as set forth in MIGC's First Revised Sheet No. 31-A, and (4) to set forth projected incremental pricing surcharges to become effective May 1, 1987 (Eleventh Revised Sheet No. 32-A) [1].

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before 3-26-87. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for the public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6349 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[1] None of MIGC's sale-for-resale customers has reported an MSAC for any prior month determined in the manner prescribed by § 282.504(d)(2) of he Commission's Regulations.

[Docket No. RP87-46-000]

Mountain Fuel Resources, Inc., et al.; Joint Complaint

March 18, 1987.

Take notice that on March 2, 1987, Mountain Fuel Resources, Inc. (MFR) and Southwest Gas Corporation (Southwest) filed a Joint Complaint against Northwest Pipeline Corporation (Northwest). MFR and Southwest contend that Northwest has violated the May 31, 1985 Commission-approved settlement agreement in Docket No. RP85-13-000 (Settlement) by failing to incorporate T-5 revenues into the 65 million decatherm threshold of section 3.3(b) of the Settlement.

In responding to MFR's letter of May 20, 1986, requesting a schedule of transportation volumes for the first 12 months under the Settlement, Northwest indicated it had transported over 96.9 million decatherms under its Rate Schedules T-2, T-4 and T-5. However, Northwest's Director of Rates and Tariffs stated that "T-5 volumes are not counted toward the 65 million dekatherms because they are volumes that are displacing sales." MFR responded to Northwest by letter of September 16, 1986 pointing out that the Settlement did not provide for any volumes to be excluded or exempted from the revenue-crediting terms of section 3.3(b). MFR has received no further formal response from Northwest on this question.

MFR and Southwest request that the Commission issue an order requiring Northwest: (1) To credit to Account No. 191, 25 percent of all revenues received from transportation services for the 12 months ended April 30, 1986, in excess of 65 million decatherms, in accordance with section 3.3(b) of the Commission-approved settlement ageement in Docket No. RP85-13-000; (2) to make such credits effective at the time required by the terms of the RP85-13 Settlement (or, alternatively, to make

appropriate lump-sum payments, including applicable interest); and (3) to file a detailed report with the Commission and all of its sales customers indicating compliance with such requirements.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 17, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before April 17, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6350 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2180-000]

Owens-Illinois, Inc.; Application for Transfer of License (Major)

March 19, 1987.

Take notice that Owens-Illinois, Inc. OII Merger Corporation (OMC) and OI Tomahawk and Timber STS Inc., (STS) have requested that the project license be transferred from Owens-Illinois, Inc. to OMC, and from OMC to STS. The reason for the requested transfer is that Owens-Illinois, Inc. will no longer exist after it is consummated by a merger transaction.

The license was issued on September 16, 1977, and would expire on June 30, 2003. The project is located on the Wisconsin River in Lincoln County, Wisconsin.

Correspondence with the applicants should be directed to: Thomas Young, Assistant General Counsel, Owens-Illinois, Inc., One SeaGate, Toledo, Ohio 43666, and Keith R. McCrea, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., P.O. Box 407, Washington, DC 20044. Phone (202) 626-6779.

Comments, Protests, or Motions to Intervene

Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rule 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-19026 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before seven days after publication in the **Federal Register.**

Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the third paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6351 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2901-001]

Owens-Illinois, Inc., Application for Transfer of License (Major)

March 19, 1987.

Take notice that Owens-Illinois, Inc., OII Merger Corporatation, (OMC) and OI Big Island Mill STS, Inc. (STS) have requested that the project license be transferred from Owens-Illinois, Inc. to OMC, and from OMC to STS. The reason for the requested tranfer is that Owens-Illinois, Inc. will no longer exist after it is consummated by a merger transaction.

The license was issued on January 29, 1981, and would expire on February 1, 2001. The project is located on the James River in Amherst and Bedford Counties, Virginia.

Correspondence with the applicants should be directed to: Thomas Young, Assistant General Counsel, Owens-Illinois, Inc., One SeaGate, Toledo, Ohio 43666, and Keith R. McCrea, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., P.O. Box 407, Washington, DC 20044. Phone (202) 626-6779.

Comments, Protests, or Motions to Intervene

Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-19026 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before seven days after publication in the **Federal Register.**

Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the third paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6352 Filed 2-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2902-001]

Owens-Illinois, Inc.; Application for Transfer of License (Minor)

March 19, 1987.

Take notice that Owens-Illinois, Inc., OII Merger Corportation, (OMC) and OI Big Island Mill STS, Inc. (STS) have requested that the project license be transferred from Owens-Illinois, Inc. to OMC, and from OMC to STS. The reason for the requested tranfer is tne Owens-Illinois, Inc. will no longer exist after it is consummated by a merger transaction.

The license was issued on December 8, 1980, and would expire on January 2, 2001. The project is located on the James River in Amherst and Bedford Counties, Virginia.

Correspondence with the applicants should be directed to: Thomas Young, Assistant General Counsel, Owens-Illinois, Inc., One SeaGate, Toledo, Ohio 43666, and Keith R. McCrea, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, NW., P.O. Box 407, Washington, DC 20044. Phone (202) 626-6779.

Comments, Protests, on Motions to Intervene

Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-19026 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before seven days after publication in the **Federal Register**.

Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS", "PROTEST, OR "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the third paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6353 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. RP87-35-001]

Texas Gas Pipe Line Corp.; Compliance Filing

March 19, 1987.

Take notice that on March 12, 1987, Texas Gas Pipe Line Corporation (TGPL) tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets in compliance with the Commission order (ORDER) that issued February 25, 1987 in Docket No. RP87-35-000:

First Revised Sheet No. 8,
First Revised Sheet No. 9,
Second Substitute Seventeenth Revised Sheet No. 4a

The effective date for these sheets is March 1, 1987.

TGPL states that First Revised Sheet Nos. 8 and 9 respond to Ordering Paragraph (B) of the ORDER and reflect the elimination from Rate Schedule G-1 of that portion of the annual minimum bill pertaining to gas and related variable costs. In addition, Second Substitute Seventeenth Revised Sheet No. 4a is submitted for filing to satisfy the requirement that TGPL provide a restatement of its base tariff rates to be effective March 1, 1987. Also in response to Ordering Paragraph (C) of the *Order*, TGPL has filed a refund report indicating that for the pertinent period, no minimum bill payments have been received by TGPL under section 4 of Rate Schedule G-1. Thus, no refund payments have been made, nor are they required.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 26, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6345 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4547-001 et al.]

Texaco Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certification [1]

March 19, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Anyone person desiring to be heard or to make and protest with reference to said applications should on or before April 1, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4547-001, D, 3/9/87	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Northwest Pipeline Corporation, Basin Dakota Field, San Juan County, New Mexico.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI63-468-000, D, 2/26/87	....do	Southern Natural Gas Company, Kokomo Field, Walthall County, Mississippi.	(1)	
CI78-523-002, D, 3/9/87	....do	Montana-Dakota Utilities Company, Charlson-Silurian Field, McKenzie County, North Dakota.	(1)	
CI87-333-000, F, 2/26/87	Texaco Producing Inc. (Partial Succ. in Interest to Texaco Inc.), P.O. Box 52332, Houston, Texas 77052.	Southern Natural Gas Company, Kokomo Field, Walthall County, Mississippi.	(1)	
CI87-351-000, F, 3/9/87	....do	Northwest Pipeline Corporation, Basin Dakota Field, San Juan County, New Mexico.	(1)	
G-9724-000, 3/5/87	Phillips 66 Natural Gas Company, 990-G Plaza Office Bldg., Bartlesville, Okla. 74004.	Northern Natural Gas Company, Division of Enron Corp., Andrews Gasoline Plant, Andrews County, Texas.	(2)	
G-2629-003, 3/5/87	....do	....do	(2)	
G-8324-001, 3/5/87	....do	....do	(2)	
CI72-239-000, 3/5/87	....do	....do	(2)	
G-2570-005, D, 3/10/87	....do	Williams Natural Gas Company, Fox Plant, Stephens County, Oklahoma.	(3)	
CI60-593-000, 3/10/87	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Texas Gas Transmission Corporation, Calhoun Field, Quachita Parish, Louisiana.	(4)	
CI61-124-000, 3/10/87	....do	....do	(4)	
CI87-342-000, B, 3/3/87	....do	Cities Service Company, State "BA" Lease, Roosevelt County, New Mexico.	(5)	
CI87-355-000, (G-4538), B, 3/9/87.	....do	Transcontinental Gas Pipeline Corp., West Tuleta Field, Bee County, Texas.	(6)	
G-10122-007, D, 3/5/87	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Tennessee Gas Pipeline Company, West Delta and Grand Isle Areas, Offshore Louisiana.	(7)	
G-12213-001, D, 3/5/87	....do	El Paso Natural Gas Company, Wemac Field, Andrews County, Texas.	(8)	
CI60-485-001, B, 3/2/87	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Columbia Gas Transmission Corporation, South Thornwell Field, Jefferson Davis Parish, Louisiana.	(9)	
CI87-335-000 (CI71-394), B, 2/27/87.	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	Northern Natural Gas Company, Division of Enron Corp., Blinebry Field, Lea County, New Mexico.	(10)	
G-6370-001, D, 2/27/87	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Southern Natural Gas Company, Tract 2586 (N 1/5) Block 45 Breton Sound Area, Offshore Louisiana.	(11)	
G-12235-005, D, 2/27/87	....do	Southern Natural Gas Company, Breton Sound 20-32 (State Lease 1227, 1998, 1999, 2000, 4574), Offshore Louisiana.	(12)	
CI67-1834-001, D, 2/27/87	....do	Southern Natural Gas Company, Buyer's meter station at the discharge side of the Dubach Gasoline Plant, Lincoln Parish, Louisiana.	(13)	
G-17396-001, D, 2/27/87	....do	Texas Gas Transmission Corporation, Inlet side of Buyer's facilities to be located on Seller's Central Production Platform, Offshore Louisiana.	(13)	
G-11335-000, D, 3/9/87	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	West Texas Gathering Company, Emperor Devonian Field, Winkler County, Texas.	(14)	
CI87-331-000, A, 2/25/87	....do	Michigan Gas Utilities Company, High Island Block 310 OCS-G-3378, Offshore Texas.	(15)	
CI87-347-000, B, 3/4/87	Joe S. McGuffin, Inc., Drawer "Y", Benavides, Texas 78341.	Valley Gas Transmission, La Huerta Field, Duval County, Texas.	(16)	
CI64-26-024, 3/2/87	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Texas Eastern Transmission Corporation, St. Francisville Area, East Feliciana Parish, Louisiana.	(17)	
CI61-1306-000, 2/27/87	Exxon Corporation, P.O. Box 2180, Houston, Texas 77252-2180.	Truckline Gas Company, Heard Ranch Field, Bee County, Texas.	(17)	
CI65-1264-001, D, 3/2/87	Union Oil Company of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Arkansas Louisiana Gas Company, N. E. Ames and Sooner Trend Area Fields, Major County, Oklahoma.	(18)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-326-000, B, 2/24/87	Marshall S. Burlew	Texas Gas Transmission Corporation, West Midland Gas Field, Muhlenberg County, Kentucky.	[19]	
CI87-332-000 (CI86-112-000), B, 2/24/87.	ENSTAR Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Sawyer Field, Sutton County, Texas.	[20]	
CI87-350-000, E, 3/6/87	Terra Resources, Inc. (Succ. to W.C. McBride), P.O. Box 2329, Tulsa, Okla. 74101.	Mountain Fuel Resources, North Nitchie Gulch 2-6 Fed., S.E. N.E., Sec. 6-23N-103W, Sweetwater County, Wyoming.	[21]	
CI87-352-000, B, 3/9/87	Expando Production Company, P.O. Drawer 8246, Wichita Falls, Texas 76307.	United Gas Pipe Line Company, Mission River et al. Fields, Refugio County, Texas.	[22]	
CI87-94-001, B, 2/27/87	Jerome P. McHugh, 650 S. Cherry—Suite 1225, Denver, Colorado 80222.	Various Purchasers, Various Fields, Rio Arriba and San Juan Counties, New Mexico.	[23]	
CI87-95-001, B, 2/27/87	....do	Various Purchasers, Various Fields, San Juan County, New Mexico and La Plata County, Colorado.	[23]	
CI87-124-001, B, 2/27/87	....do	Various Purchasers, Basin Dakota, Wild Horse Gallup and Tapacito P.C. Fields, Rio Arriba County, New Mexico.	[23]	
CI87-125-001, B, 2/27/87	....do	Various Purchasers, Basin Dakota, Ignacio Blanco Dakota, Gallegos Gallup, Ballard P.C., Blanco P.C. South, Gavilan Pictured Cliffs, WAW Fruitland P.C., Undesignated P.C. and Choza Mesa Gallup Fields, San Juan and Rio Arriba Counties, New Mexico, and La Plata County, Colorado.	[23]	
CI61-1066-001, D, 2/27/87	Orlando-SOI Partnership, P.O. Box 4480, Houston, Texas 77210.	Transcontinental Gas Pipe Line Corp., Eugene Island Block 116, Offshore Louisiana.	[24]	
CI87-341-000, B, 3/2/87	Minel, Inc., 457-C Washington, S.E., Albuquerque, New Mexico 87108.	El Paso Natural Gas Company, Tapacito P.C. and Blanco P.C. Field, Rio Arriba County, New Mexico.	[25]	
CI87-343-000 (CI81-353-000), B, 3/3/87.	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Sea Robin Pipeline Company, S. Marsh Island, Block 113, OCS-G-2880, Offshore Louisiana.	[26]	

[1] Effective 12-31-84 Texaco Inc. assigned certain acreage to Texaco Producing Inc.
[2] Applicant is filing to add alternate delivery point at Phillips' Fullerton Plant, in Andrews County, Texas.
[3] Texaco Producing Inc's. contract with Phillips expired on 7-1-81, with year-to-year sales thereafter. Texaco Producing gave notice of termination by letter dated 6-2-86. Phillips acknowledged the termination as of 6-30-86.
[4] Applicant is filing to reflect a change in the delivery point.
[5] Contract terminated under its own terms on 12-10-84. ARCO plans no development of the depths from 4,600' to 5,000'. The rights from the surface to 4,600' were assigned to Holden Petroleum Corporation effective 11-3-71.
[6] ARCO no longer holds an interest in acreage to be abandoned. All acreage covered by Rate Schedule No. 504 sold to Pettrus Oil Company effective 5-1-86.
[7] 749.99 acres located in the southeast portion of West Delta Block 52 were surrendered upon demand by the State of Louisiana.
[8] The lease covering W/2 Section 23, Public School Lands, Andrews County, Texas has expired.
[9] By Sale and Assignment dated 1-24-84, Amoco Production Company sold certain acreage to Vernon E. Faulconer.
[10] Property sold to Michael L. Klein effective 3-1-86.
[11] Acreage released in lieu of development and Well F-1 has no future utility and has been plugged and abandoned.
[12] Undeveloped acreage has been released. Applicant no longer has the right to explore or develop the acreage.
[13] Acreage released.
[14] Partial Assignment and Bill of Sale executed on 9-4-84, effective 9-1-84, Sun Exploration and Production Company assigned its interest on Property Numbers: 400059, Brown Altman A/C 8, 414120, Brown Altman (Getty), 414122, Brown Altman A/C 5, 414124, Brown Altman A/C 7, 414127, Brown Altman A/C 3, 414128, Brown Altman A/C 4A, 414129, Brown Altman A/C 4B, 414136, Brown E. #1, 414137, Brown E. #2, and 414152, Brown Altman A/C 1, to Herman L. Loeb (50%), and Baldwin & Baldwin Oil Co. (50%).
[15] Applicant is filing under Gas Purchase and Sales Agreement dated 11-1-86.
[16] Purchaser lost his resale market and was forced to discontinue taking gas from this lease. This lease has been shut in for almost 1 year. This lease has been purchased from Windsor Gas by Joe S. McGuffin Inc.
[17] Applicant is filing for an additional delivery point.
[18] Union assigned rights in the wellbore only for three wells under Docket No. CI65-1264 to Bentley & Laing.
[19] Texas Gas Transmission Corporation has acquired the lease acreage dedicated to the contract as a part of its Midland Gas Storage Field.
[20] Effective 8-1-86 Seller conveyed the acreage dedicated to Rate Schedule 23 to Grover Oil Company.
[21] Effective 9-10-86, W. C. McBride assigned certain acreage to Terra Resources, Inc.
[22] No gas has been purchased from lease since July 1984 and Buyer has agreed to release contract.
[23] Applicant requests pregranted abandonment authorization for a three-year limited-term. This authorization is requested to cover any sale of gas Applicant may undertake under its small producer certificate issued in Docket No. CS72-365 of production from acreage covered by the permanent abandonments authorized by the Commission's Orders of January 9, 1987, in Docket Nos. CI87-94-000 and CI87-95-000 and February 24, 1987, in Docket Nos. CI87-124-000 and CI87-125-000.
[24] Assigned to Mobil Oil Exploration & Producing Southeast Inc., Conoco Inc. and Newmont Oil Company by assignment effective 12-3-86.

[25] Gas production from affected wells has been curtailed since April 1986 and is expected to remain the same for an indefinite period of time. Applicant desires limited term abandonment for purpose of marketing gas to spot market.
[26] Production from Block 113 OCS-G-2880 ceased on 10-17-86, and lease terminated on 1-15-87.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-6348 Filed 3-23-87; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 8173-003]

Incorporated County of Los Alamos, New Mexico; Surrender of Preliminary Permit

March 18, 1987.

Take notice that the Incorporated County of Los Alamos, New Mexico, permittee for the proposed Heron Power Project No. 8173, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 15, 1984, and would have expired on September 30, 1987. The project would have been located on Willow Creek in Rio Arriba County, New Mexico. The permittee states that the project would not be economically feasible to develop at this time.

The permittee filed the request on March 2, 1987, and the preliminary permit for Project No. 8173 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6367 Filed 3-23-87; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 9218-002]

Tehama Power Authority; Surrender of Preliminary Permit

March 18, 1987.

Take notice that Tehama Power Authority, permittee for the Fiddlers Project No. 9118, located on Middle Fork Cottonwood Creek, Shasta and Tehama Counties, California, has requested that its preliminary permit be terminated. The preliminary permit was issued on April 7, 1986, and would have expired on March 31, 1989. The permittee states that analysis of the Fiddlers Project indicated that the time for conducting studies would be much longer than the 36 month period of the preliminary permit.

The permittee filed the request on February 13, 1987, and the preliminary permit for Project No. 9218 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Staturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6347 Filed 3-23-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. QF-87-292-000 et al.]

Cogenic Energy System, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**. In accordance with Standard Paragraph E at the end of this notice.

March 18, 1987.

Take notice that the following filings have been made with the Commission.

1. Cogenic Energy System, Inc.

[Docket No. QF87-292-000]

On February 27, 1987, Cogenic Energy Systems, Inc. (Applicant), of 9929 Hibert Street, Suite A, San Diego, California 92131 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Delano, California. The facility will consist of one internal combustion engine generator and necessary heat recovery equipment. The thermal energy recovered from both jacket water and exhaust gases will be used for domestic hot water and space heating. The electric power production capacity will be 99 kilowatts. The primary energy source will be natural gas. Installation of the facility will begin on June 1, 1987.

2. Freeport-McMoRan, Inc. and Gunnison Capital, Ltd.

[Docket No. QF86-23-003]

On March 2, 1987, Freeport-McMoRan Inc. of 1615 Poydras Street, New Orleans, Louisiana 70161, and Gunnison Capital, Ltd. of 3050 Post Oak Blvd., Suite 1175, Houston, Texas 77056 (Applicant), submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

On October 15, 1985, Applicant filed for certification of a facility as a qualifying cogeneration facility (Docket No. QF86-23-000). On December 11, 1985, Applicant filed an amendment to its application in which it requested the Commission to also certify the facility as a qualifying small power production facility (Docket No. QF86-23-001). The application for the small power production facility was granted on December 31, 1985 (33 FERC ¶61,474). Under the instant application for recertification, Applicant states that Gunnison Capital, Ltd. will be the sole owner and operator of the facility. All other details and descriptions of the facility described in the original application remain the same.

3. Freeport-McMoRan, Inc. and Gunnison Capital, Ltd.

[Docket No. QF86-23-004]

On March 6, 1987, Freeport-McMoRan Inc. of 1615 Poydras Street, New Orleans, Louisiana 70161, and Gunnison Capital, Ltd. of 3050 Post Oak Blvd., Suite 1175, Houston, Texas 77056 (Applicant), submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

On October 15, 1985, Applicant filed for certification of a facility as a qualifying cogeneration facility [Docket No. QF86-23-000], and the application was granted on January 28, 1987 (38 FERC ¶61,059). On December 11, 1985, Applicant filed an amendment to its application in which it requested the Commission to also certify the facility as a qualifying small power production

facility (Docket No. QF86-23-001). The application for the small power production facility was granted on December 31, 1985 [33 FERC ¶61,474]. Under the instant application for recertification, Applicant states that Gunnison Capital, Ltd. will be the sole owner and operator of the facility described in the original application remain the same.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure [18 cFR 385.211 and 385.214]. All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6344 Filed 3-23-87; 8:45 am]

BILLING CODE 6717-01-M

Revised Emergency Action Plan Guidelines Issued April 5, 1985

Issued March 18, 1987.

Pursuant to the authority in § 12.22(a)(1) of the Commission's regulations, the Director, Office of Hydropower Licensing, has revised Table 1 (Suggested Breach Parameters—page 21) of the Revised Emergency Action Plan Guidelines issued April 5, 1985.

Copies of the revised Table 1 are available from the Commission's Division of Public Information, Director, Division of Inspections or the Regional Director (Atlanta, New York, Chicago, Portland, and San Francisco). The original table of suggested breach parameters was based on previous recommendations by Dr. Danny L. Fread of the National Weather Service. Table 1 has been revised to conform with current breach parameters recommended by Dr. Fread. Due to this revision, Table 1 has been expanded from one page to three pages (i.e., pages 21, 21A, and 21B).

Kenneth F. Plumb,

Secretary.

TABLE 1.—SUGGESTED BREACH PARAMETERS

[Definition sketch shown in figure 1]

Parameter	Value	Type of Dam
Average width of Breach (BR) (See Comment No. 1.	HD < $\overline{BR}$ < 5HD (usually between 2HD and 4HD).	Earthen, rockfill.
	$\overline{BR}$ > 0.8 x Crest length	Slag, refuse.
	$\overline{BR}$ = Crest length	Concrete, arch timber crib.
	$\overline{BR}$ = Width of 1 or more Monoliths, usually $\overline{BR}$ < 0.5 W.	Masonry, gravity.
Horizontal Component of Side Slope of Breach (Z) (See Comment No. 2).	0 < Z < 2	All.
	Z = 0	Masonry, concrete timber crib.
	¼ < Z < 1	Earthen (engineered, compacted).
	1 < Z < 2	Slag, refuse (Nonengineered).
	0 < Z < slope of valley walls	Arch.
Time to Failure (TFH) (in hours) (See Component No. 3).	0.1 < TFH < 3	All.
	TFH < 0.1	Arch timber crib.
	0.1 < TFH < 0.3	Masonry, concrete.
	0.1 < TFH < 1.0	Earthen (Engineered, compacted).
	0.1 < TFH < 0.5	Earthen (Nonengineered, poor construction).
	0.1 < TFH < 0.3	Slag, refuse.

Definition:
HD—Height of Dam.
Z—Horizontal Component of Side Slope of Breach.
BR—*Average* Width of Breach.
TFH—Time to Full Form the Breach.
W—Crest Length.
Comments: See page 21A-21B.

Comments

1. BR is the *average* breach width, which is not necessarily the bottom width. BR is the bottom width for a rectangle, but BR is not the bottom width for a trapezoid.

2. Whether the shape is rectangular, trapezoidal, or triangular is not generally critical if the average breach width for each shape is the same. What is ctitical is the assumed average width of the breach.

3. Time to failure is a function of height of dam and location of breach. Therefore, the longer the time to failure, the wider the breach should be. Also, the greater the height of the dam and the storage volume, the greater the time to failure and average breach width will probably be.

4. The bottom of the breach should be at the foundation elevation.

5. Breach width assumptions should be based on the height of the dam, the volume of the reservoir, and the type of failure (e.g., piping, sustained overtopping, etc.).

6. For a worst-case scenario, the average breach width should be in the upper portion of the recommended range, the time to failure should be in the lower portion of recommended range, and the manning's value should be in the upper portion of the recommended range. In order to fully investigate the effects of the impacts of a failure on downstream areas, a sensitivity analyses is required to estimate the confidence limits and relative differences resulting from varying failure assumptions:

a. To compare relative differences in peak elevation based on variations in breach widths, the sensitivity analysis should be based on the following assumptions:

1. Assume a probable (reasonable) maximum breach width, a probable minimum time to failure, and a probable maximum manning's "n" value. Manning's "n" values in the vicinity of the dam (up to several thousand feet or more downstream) should be assumed to be larger than the maximum value suggested by field investigations in order to account for uncertainties of high energy losses, velocities, turbulence, etc., resulting from the initial failure.

2. Assume a probable minimum breach width, a probable maximum time

to failure, and a probable minimum manning's "n" value.

Plot the results of both runs on the same graph showing changes in elevation with respect to distance downstream from the dam.

b. To compare differences in travel time of the flood wave, the sensitivity analysis should be based on the following assumptions.

1. Use criteria in a. 1.

2. Assume a probable maximum breach width, a probable minimum time to failure, and a probable minimum manning's "n" value.

Plot the results of both runs on the same graph showing the changes in travel time with respect to distance downstream from the dam.

c. To compare differences in elevation between natural flood conditions and natural flood conditions plus dambreak, the sensitivity analysis should be based on the following assumptions:

1. Route natural flood without dambreak assuming maximum probable manning's "n" value.

2. Use criteria in a. 1.

Plot the results of both runs on the same graph showing changes in elevation with respect to distance downstream from the dam.

7. When dams are assumed to fail from overtopping, wider breach widths than those suggested in Table 1 should be considered if overtopping is sustained for a long period of time.

[FR Doc. 87-6346 Filed 3-23-87; 8:45 am]
BILLING CODE 6717-

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of January 26 through January 30, 1987

During the week of January 26 through January 30, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Painting and Drywall Work Preservation Fund, Inc., 1/27/87; KFA-0070

The Painting and Drywall Work Preservation Fund, Inc. (Fund) filed a Freedom of Information Act (FOIA) Appeal from a determination issued to the Fund on December 19, 1986 by the Director, Classification and Technical Information Division, Albuquerque Operations Office, Department of Energy (Director). In that determination, which was issued in response to a request for documents made by the Fund, the Director withheld information pertaining to the identities of individual employees from DOE contractors' certified payroll records. The information was withheld pursuant to Exemption 6 of the FOIA on the grounds that its release would constitute a clearly unwarranted invasion of the individuals' privacy not outweighed by any public interest in disclosure. In considering the Fund's Appeal, the DOE rejected the assertion that enforcement of prevailing wage legislation required the release of the withheld information. The DOE stated that the public interest in monitoring compliance with that legislation could be adequately served by a review of the information already released to the Fund; that disclosure of individual employees' identities was not necessary; and that the release of such information, together with the information already released to the Fund, would constitute a serious invasion of the individuals' privacy. Accordingly, the Fund's Appeal was denied.

Remedial Orders

Corum Energy Corp. 1/28/87; HRO-0234

Corum Energy Corporation objected to a Proposed Remedial Order (PRO) alleging that it had violated the DOE's layering regulation, by reselling crude oil at a price in excess of its purchase price without performing any traditional and historical service. In examining Corum's objections to the PRO, the Office of Hearings and Appeals (OHA) found that the firm had failed to establish that it had performed any service of economic value to the industry in connection with the 273 specific sales transactions cited in the PRO. For example, the OHA found that Corum's sales to refiners were of no economic benefit to the industry, because Corum was merely reselling to the refiners the very same crude oil which they had sold to Corum in previous transactions. The OHA also rejected Corum's claims that merely engaging in "in-line transfers" was sufficient to meet the requirements of the layering rule. The OHA ordered Corum to refund the sum of $9,538,036.55, plus interest.

Jack Holland & Son, Inc., John M. Holland, Jr. d/b/a Jack Holland & Son, P.H.D. Inc., John M. Holland, Jr., Donald W. Dalziel, 1/27/87; HRO-0155; HRO-0178; KRH-0004

On May 4, 1983 and June 21, 1983, respectively, the Economic Regulatory Administration (ERA) issued Proposed Remedial Orders (PROs) to Jack Holland & Son, John M. Holland, Jr. d/b/a Jack Holland & Son (collectively "Holland"), P.H.D. Incorporated (PHD) and John M. Holland, Jr. Since the PROs similarly involved alleged violations of the DOE price regulations applicable to crude oil resellers, 10 CFR Part 212, Subparts F and L, and concerned concurrent audit periods, the Office of Hearings and Appeals (OHA) consolidated the enforcement proceedings. In addition, the OHA subsequently granted a motion by the ERA to join Donald W. Dalziel (Dalziel) as a co-recipient of the PROs. *Economic Regulatory Administration*, 12 DOE ¶ 82,548 (1985). In considering the Statements of Objections separately filed by Holland, PHD and Dalziel, the DOE principally determined that: (i) Holland and PHD were properly treated by the ERA as the same "firm,"

(ii) Holland had not substantiated its claim that the ERA's audit was based upon inaccurate records,

(iii) Holland and PHD had not shown that the ERA's price computations were inaccurate, and

(IV) John M. Holland, Jr. and Dalziel were properly held jointly and severally liable for the overcharges committed by the Holland/PHD firm. Accordingly, the PROs were issued as final Remedial Orders against the named respondents. The DOE further determined in the decision that a Motion for Evidentiary Hearing filed by Dalziel should be denied.

Requests for Exception

Dickerson Oil Co./Wilson Oil Co., 1/27/87; KEE-0082; KEE-0088

Dickerson Oil Co. and Wilson Oil Co. filed Applications for Exception in which each firm sought relief from its obligation to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering both Applicants, requests, the DOE found that the firms failed to demonstrate that they were particularly adversely affected by the requirement that they file the Form. Accordingly, the Department of Energy issued a Decision and Order which determined that the exception requests be denied.

Magness Oil Co., 1/27/87; KEE-0038

Magness Oil Company filed for relief from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." Although Magness presented several arguments in support of its request for relief, the Office of Hearings and Appeals of the Department of Energy found that contradictory statements made by Magness cast doubt on the validity of its arguments. Accordingly, Magness' request for relief was denied.

River Valley Oil Co., Inc., 1/30/87; KEE-0083

River Valley Oil Company, Inc. filed an Application for Exception from the requirement that it prepare and file Form EIA-782B. In considering the application, the DOE decided that the firm had not demonstrated that it was uniquely and adversely affected by the mandatory reporting requirement. Accordingly, the Application for Exception was denied.

Refund Applications

Gary Energy Corp., Kmoco Oil Co., 1/27/87; RF47-10

KMOCO Oil Company, a wholesale reseller of refined petroleum products, filed an Application for Refund in connection with the Gary Energy Corporation refund proceeding. In its application, KMOCO submitted evidence of cost banks, along with data intended to demonstrate its competitive disadvantage in purchasing from Gary. Based on the information submitted, the DOE granted KMOCO a refund of $39,247, representing $31,494 in principal and $7,753 in interest from the Gary deposit escrow account.

Gulf Oil Corp./Cacheroad Icedock et al., 1/27/87, RF225-3406 et al.

The DOE issued a Decision and Order concerning fifteen Applications for Refund filed by retailers of Gulf refined petroleum products. The claimants applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). After examining the evidence and supporting documentation submitted by the applicants, the DOE concluded that the claimants should receive refunds totalling $44,780 ($36,421 principal plus $8,359 interest).

Gulf Oil Corp./Woodruff Distributing Co., 1/27/87, RF40-1986

The DOE issued a Decision and Order concerning an Application for Refund filed by Woodruff Distributing Company, a reseller of refined petroleum products, in connection with the Gulf Oil Corporation special refund proceeding. Using revenue and sales data provided by the applicant, the DOE calculated Woodruff's average monthly profit margins in sales during the consent order period. A comparison between Woodruff's average margins and its allowable margins under the regulations indicated that the firm would not have been required to pass through to its customers a cost reduction equal to the refund amount claimed for its Gulf purchases beginning with January 1974. Accordingly, the DOE granted Woodruff $32,865, its volumetric refund for the Gulf product it purchased from January 1974 through the end of the consent order period, plus $7,543 in interest, or $40,408 total.

La Gloria Oil & Gas Co./Swifty Oil Co. et al., 1/30/87, RF263-6 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by four resellers of La Gloria Oil & Gas Co. refined petroleum products. Each of the applicants presented evidence that it purchased refined petroleum products from La Gloria during the consent order period, and claimed refunds at or below the $5,000 small claims threshold for resellers. In accordance with the methodology set forth in *La Gloria Oil & Gas Co.*, 14 DOE ¶ 85,501 (1986), each applicant was found eligible for a refund from the La Gloria consent order fund based on the volume of its purchases times the volumetic refund amount. The refunds approved in this Decision totaled $18,225.

Marathon Petroleum Co./Alvin A. Schnantz, et al., 1/30/87, RF250-1942 et al.

The DOE issued a Decision and Order concerning 51 Applications for Refund filed by resellers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant submitted information indicating the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $82,851, representing $77,153 in principal and $5,698 in interest.

Marathon Petroleum Co./Baker's Marathon, et al., 1/27/87; RF250-1852 et al.

The DOE issued a Decision and Order concerning 76 Applications for Refund filed by resellers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant submitted information indicating the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $76,844, representing $71,721 in the principal and $5,123 in interest.

Marathon Petroleum Co./Gustafson Petroleum Co., 1/27/87; RF250-1528, RF250-1529

The DOE issued a Decision and Order concerning two Applications for Refund filed by Gustafson Petroleum Company (Gustafson), a reseller of Marathon covered products. Although the firm's purchase of residual and distillate fuel oil from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986), Gustafon elected to file its refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Gustafson should receive a refund of $12,568.76 in principal and $714.15 in accrued interest for a total refund of $13,282.91.

Marathon Petroleum Co./Harper Oil Co., 1/29/87; RF250-1818

The DOE issued a Decision and Order concerning an Application for Refund filed by Harper Oil Company (Harper), a reseller of Marathon covered products. Although the firm's purchase of motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986), Harper elected to file its refund application in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Harper should receive a refund of $17,377.90 in principal and $1,045.86 in accrued interest for a total refund of $18,423.76.

Marathon Petroleum Co./Quality State Oil Co., Kenan Oil Co., 1/29/87; RF250-1282, RF250-1299

The DOE issued a Decision and Order concerning the Applications for Refund filed by Quality State Oil Co. and Kenan Oil Company in the Marathon Petroleum Company refund proceeding. Both applicants were spot purchasers of Marathon motor gasoline during the consent order period, but neither applicant attempted to rebut the non-injury presumption adopted in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 86,515 (1986). Accordingly, both Applications were denied.

Mobil oil Corp. A.B. Dick Co. et al., 1/30/87; RF225-10026 et al.

The DOE granted 26 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $46,263; $38,190 in principal plus $8,073 in interest.

Mobil Oil Corp. AT&T Technologies, Inc. et al., 1/27/87; RF225-9141 et al.

The DOE issued a Decision and Order granting 28 applications of end-users requesting refunds from the Mobil Oil Corporation consent order fund. Each applicant presented evidence that it purchased refined petroleum products directly from Mobil during the consent order period. According to the methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), each applicant was found to be eligible for a refund from the Mobil consent order fund based on the volume of its purchases times 100 percent of the volumetric refund amount. The refunds approved in the Decision totaled $28,946.

Mobil Oil Corp/Barton Construction et al., 1/29/87; RF225-3826 et al.

The DOE granted 49 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $9,561; $7,895 in principal plus $1,666 in interest.

OKC Corp./Kansas, 1/30/87; RQ13-319

The DOE issued a Decision approving the second-stage refund application submitted by the State of Kansas in the OKC Corp. refund proceeding. The State will use $250,000 for the Kansas Conservation Bank and $69,500 for Energy Extension Services. The Conservation Bank will reduce the principal on loans obtained for a variety of energy conservation measures. Through lectures, workshops, consultations and written materials, Energy Extension Services will help businesses decrease their energy consumption.

Standard Oil Co. (Indiana)/ Georgia, 1/30/87; RQ251-348

The State of Georgia filed a second-stage refund plan concerning funds remitted to the DOE under a consent order with Standard Oil Company (Indiana) (Amoco). The DOE approved in part the proposed refund plan to use $995,080 allotted to the State in the *Amoco II* decision (14 DOE ¶ 85,161 (1986)). Approved portions of the plan proposed to use funds to promote energy conservation in small businesses, to establish special public and rural transportation systems, to improve traffic light synchronization within the State, to introduce car care clinics throughout the State, and to promote energy conservation in the home and in the construction of future homes. The DOE rejected the State's proposal to use part of the *Amoco II* funds to improve the quality of Georgia's small airport facilities, since such a program would benefit

the counties and towns who own and operate the airports rather than the pilots who use their services. The total amount including interest approved in the decision is $935,757.

Wisconsin Industrial Fuel Oil, Inc./Moore Oil Co., RF75-3;
Stoel, Rives, Boley, Fraser & WYse, 1/29/87; KFX-0028

The DOE issued a Decision and Order concerning an Application for Refund filed by Moore Oil Company. In its application, Moore sought a portion of the funds obtained by the DOE pursuant to a consent order entered into with Wisconsin Industrial Fuel Oil, Inc. Upon review of Moore's application, the DOE found that the applicant was neither timely nor accurate. In particular, the DOE noted that Moore Oil's representative, the law firm of Stoel, Rives, Boley, Fraser & Wyse , stated that the firm had no knowledge of the Wisconsin Industrial Fuel refund proceeding. However, the public record contains documentation demonstrating that Moore Oil had inquired into the status of the refund proceeding before the refund procedures had been implemented and at the time of implementation the firm had been notified twice. Accordingly, the refund application was dismissed and Stoel, Rives was asked to show cause why its privilege of participating in proceedings before the Office of Hearings and Appeals should not be suspended pursuant to 10 CFR 205.3(b) for the submission of false or misleading statements in the application.

Dismissals

The following submissions were dismissed:

Name	Case No.
Astroline Corp	RF225-10302.
B & H Motel, Inc	RF225-6060, RF225-6061.
Celeron Oil & Gas Co	RF6-69.
Donald Schultz Oil Co	RF225-8352.
Fearless Farris Wholesale, Inc.	RF112-204.
Garden City Mobil	RF225-6263.
Lajet, Inc	KRO-0390.
Merchants Oil, Inc	RF112-205.
Necomer Service Co	RF112-206.
Richard E. Edgar	RF225-4091 thru RF225-4093.
River Valley Marina	RF225-6917 thru RF225-6919.
Rock Road Service	RF225-5640.
Rouse Oil Co	RF112-207.
Saber Refining, Inc	RF6-12.
Simons Petroleum, Inc	RF112-208.
Southwest Ohio Regional Transit Authority.	RF272-238.
Strand Aviation, Inc	RF112-203.
Strasburger Enterprises, Inc	KRO-0130.
Texas American Petrochemicals.	RF6-55.
Thomas Fuel Service, Inc	RF225-6860.
Tom's Mobil	RF225-8482.
West End Service	RF225-3610.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George Breznay,
Director, Office of Hearings and Appeals.
March 16, 1987.
[FR Doc. 87-6323 Filed 3-23-87; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Week of February 23 Through February 27, 1987

During the week of February 23 through February 27, 1987, the notice of objection to proposed remedial order listed in the Appendix to this Notice were 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 Energy 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 Hearings and Appeals, Department of Energy, Washington, DC 20585.

March 16, 1987
George B. Breznay,
Office of Hearings and Appeals.

The Crude Company, Inc., Casper, WY; KRO-0440 Crude Oil

On February 24, 1987, The Crude Company, Inc. (TCC), 701 W. Antler, Box 1968, Casper Wyoming 82602, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Dallas, Texas Office of Enforcement of the Department of Energy (DOE) issued to the firm on January 9, 1987.

On February 24, 1987, the State of California filed a Notice of Objection to the TCC PRO issued on January 9, 1987.

In the PRO, the Dallas Office alleges that during the period March 1, 1974, through December 31, 1977, TCC charged prices in the resale of crude oil in excess of TCC's Maximum Lawful Selling Price (MLSP) in violation of 10 CFR 212.93. The alleged MLSP overcharges amount to $7,590,958. The PRO alleges further that during the period January 1, 1978 through December 31, 1980, TCC charged prices in the resale of crude oil in excess of its Permissible Average Markup (PAM) in violation of 10 CFR 212.183. The alleged PAM overcharges amount to $1,402,512. Accordingly, the PRO seeks $8,993,470 in overcharges plus interest.

[FR Doc. 87-6324 Filed 3-23-87; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3173-9]

Motor Vehicle Emission Factors; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding the Agency's motor vehicle emission factors. The emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in evaluating the emission factors and to allow all interested parties to participate informally in the review of the EPA information.

DATE: The workshop is being held on Wednesday, April 8, 1987 at 9:00 a.m.

ADDRESS: The workshop will be held at EPA's Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Lois Platte, (313) 668-4306, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

SUPPLEMENTARY INFORMATION: EPA's current estimates of emission factors are contained in the computer program MOBILE3, and have been published in the report entitled "Compilation of Air

Pollutant Emission Factors: Mobile Sources," Vol. II, Fourth Edition. MOBILE3 was released in mid-1984, and since that time much additional in-use vehicle emission data have been collected and evaluated. EPA believes that incorporating this data into a new model, MOBILE4, would be beneficial to States and local agencies using the model for long term attainment planning.

The current timetable calls for release of MOBILE4, by September 30, 1987. EPA plans to hold two public workshops—one on April 8 (the subject of this announcement) and a second one in early August (the date will be determined at a later time). It is planned that the draft MOBILE4 model will be released for comment immediately following the second workshop.

The content of the first workshop (April 8) will include emission factors of the following types:

- Heavy duty truck—exhaust
- Light duty gasoline vehicles)—exhaust
- Evaporative hydrocarbons

EPA may make various proposals about how the emission factors could be used in MOBILE4, particularly with respect to evaporative emissions. Also included in the agenda may be new speed and temperature correction factor information, and updated travel characteristics. Information on items for which there is not sufficient time to make a formal presentation may be disseminated through handouts made available at the workshop.

Suggestions for additional topics should be made in advance of the workshop. Because of the technical nature of the agenda, participants should be familiar with the existing emission factors and MOBILE3 to most fully contribute to the discussions.

This workshop will not discuss the programming aspects of the MOBILE3 computer program, such as its interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the program.

The workshop is intended to be a forum for exchange of information and has no direct connection to any rulemaking action. Consequently, the workshop will be very informal.

There will be no opportunity for prepared statements in general, although prepared remarks will be welcome on specific issues as those are bought up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Lois Platte, at the address set above.

Dated: March 18, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-6333 Filed 3-23-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File Nos. BPH-860123MD et al. MM Docket No. 87-55]

Applications for Consolidated Hearing; French Brothers et al.

1. The Commission has before in the following mutally exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. French Brothers, a limited partnership, Mount Jackson, VA.	BPH-860123MD	87-55
B. Randal J. Kirk, Mount Jackson, VA.	BPH-860123ME	
C. Shenandoah County Broadcasting Corporation, Mount Jackson, VA.	BPH-860123MF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issued Heading Applicant(s)

1. Environmental Impact, C
2. Comparative, A, B, C
3. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-6253 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-850712SR et al; MM Docket No. 87-56]

Applications for Consolidated Hearing; Indian Nations Communications et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Indian Nations Communications, Humnoke, AR.	BPH-850712SR	87-56.
B. Franklin Broadcasting, Humnoke, AR.	BPH-850712SS	
C. Radio Four, Inc, Humnoke, AR.	BPH-850712ST	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-6254 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-8404301 et al; MM Docket No. 87-53]

Applications for Consolidated Hearing; Scott Gerard Mahalick et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Scott Gerard Mahalick, Honolulu, HI.	BPH-840430IL	87-53
B. Radio Pacific, Inc. Honolulu, HI.	BPH-841114MH	
C. Ronayne Hope and Lorna M. Auyoung d/b/a Completely Sound Co., Honolulu, HI.	BPH-841114ML	
D. Tzeitle Broadcasting Co., Honolulu, HI.	BPH-84111MW	
E. Shilah Braodcasting, Inc., Honolulu, HI.	BPH-84111MX	
F. South Shore, Ltd., a limited partnership, Honolulu, HI.	BPH-84111MY	
G. Radio Representatives, Inc., Honolulu, HI.	BPH-84111NA	

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 processing upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant

1. City Coverage—FM, A—G
2. Comparative, A—G
3. Ultimate, A—G

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-6255 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-850-709 MP et al; MM Docket No. 87-54]

Applications for Consolidated Hearing; Susan Oleita Mills et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant City and State	File No.	MM Docket No.
A. Susan Oleita Mills Vienna, WV.	BPH-850709MP	87-54
B. William E. Benns, III, Vienna, WV.	BPH-85071,ONE	
C. Vienna Broadcasting Company, Vienna, WV.	BPH-850711OX	
D. Mary L. Smith, d/b/a/ Radio Vienna, Vienna, WV.	BPH-850712YG	
E. Lower Ohio Valley Educational Corporation, Vienna, WV.	BPH-850712YH	
F. Knight Broadcasting Company, Vienna, WV.	BPH-850712YI	
G. Brent P. Patterson, Vienna, WV.	BPH-850712YJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standarized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Air Hazard, B,C,D,E,F,G
2. Comparative, All.
3. Ultimate All.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during the normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 87-6256 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. BPCT-860926KN et al; MM Docket No. 87-57]

Applications for Consolidated Hearing; Western Telecasting Company et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM Docket No.
A. Western Telecasting Company, Jackson, WY.	BPCT-86092KN	87-57
B. William L. Cook II, Jackson, WY.	BPCT-861117KR	87-57
C. Bear Broadcasting, Ltd., Jackson, WY.	BPCT-861117KW	87-57

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air Hazard, A
Comparatve, A, B, C
Ultimate, A. B. C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is availale for inspection and copying during normal business hours in the FCC Docket Branch (Room 230) 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-6257 Filed 3-23-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-578]

Empire Savings and Loan Association, Hammonton, NJ; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Empire Savings and Loan Association, Hammonton, New Jersey for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6269 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-574]

Fidelity Federal Savings Bank Marion, IN; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings Bank, Marion, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, P.O. Box 60, Indianapolis, Indiana 46206-0060.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6270 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-583]

First Federal Savings and Loan Association, Columbia, TN; Final Action Approval of Conversion Application

Dated: March 13, 1987.

Notice is hereby given that on February 12, 1987, the Officer General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association, Columbia, Tennessee for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, P.O. Box 598, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-6271 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-584]

First Federal Savings and Loan Association of Mariana, Mariana, FL; Final Action Approval of Conversion Application

Dated: March 13, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Mariana, Mariana, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 105565, Atlanta, Georgia 30348.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-6272 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-581]

First Federal Savings and Loan Association of Memphis, Memphis, TN; Final Action, Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Memphis, Memphis, Tennessee for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, P.O. Box 598, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6273 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-576]

First Financial Savings Association, F.A., Cincinnati, OH; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 13, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Financial Savings Association, F.A., Cincinnati, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Cincinnati, P.O. Box 598, Cincinnati, Ohio 45201.

The Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6274 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-572]

Greencastle Federal Savings Bank, Greencastle, IN; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 13, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Greencastle Federal Savings Bank, Greencastle, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of

Indianapolis, P.O. Box 60, Indianapolis, Indiana 46206–0060.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–6275 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–580]

Kosciuszko Savings and Loan Association, Wilmington, DE; Final Action Approval of Conversion Application

Dated: March 13, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Kosciuszko Savings and Loan Association, Wilmington, Delaware for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, 20 Stanwix Street, One Riverfront Center, Pittsburgh, Pennsylvania 15222–4893.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–6276 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–577]

Laurel Savings Association, Allison Park, PA; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Laurel Savings Association, Allison Park, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, One Riverfront Center, Twenty Stanwix Street, Pittsburgh, Pennsylvania 15222–4893.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–6277 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–582]

Anchor Savings Bank, F.S.B. Northport, NY; Final Action Approval of Conversion Application

Dated: March 13, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Anchor Savings Bank, F.S.B., Northport, New York for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87–6266 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–575]

Deerfield Federal Savings and Loan Association, Deerfield, IL; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the applications of Deerfield Federal Savings and Loan Association, Deerfield, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite, 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–6267 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–579]

Dollar Savings Association, New Castle, PA; Final Action Approval of Conversion Application

Dated: March 13, 1987.

Notice is hereby given that on February 13, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Dollar Savings Association, New Castle, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, One Riverfront Street, Pittsburgh, Pennsylvania 15222–4893.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–6268 Filed 3–23–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–570]

Oriental Federal Savings Bank Humacao, Puerto Rico; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 12, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Oriental Federal Savings Bank, Humacao, Puerto Rico for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048. 94120.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6278 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-573]

Pioneer Federal Savings Bank, Winchester, KY; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 14, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Pioneer Federal Savings Bank, Winchester, Kentucky for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Cincinnati, Post Office Box 598, Cincinnati, Ohio 45201.

The Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6279 Filed 3-20-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-571]

Sellersville Savings and Loan Association Perkasie, PA; Final Action Approval of Conversion Application

Dated: March 12, 1987.

Notice is hereby given that on February 11, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Sellersville Savings and Loan Association, Perkasie, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, One Riverfront Center, Twenty Stanwix Street, Pittsburgh, Pennsylvania 15222-4893.

The Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6280 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

Home Savings and Loan Association Seattle, WA; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in § 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729((c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Home Savings and Loan Association, Seattle, Washington, on March 13, 1987.

Dated: March 18, 1987.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6281 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

Perpetual Savings Bank; Santa Ana, Cal.; Appointment of Receiver

Notice is hereby given that the Superior Court for the County of Los Angeles has confirmed the appointment by the Savings and Loan Commissioner for the State of California ("Commissioner") of the receiver for Perpetual Savings Bank, Santa Ana, California ("Perpetual"), and that pursuant to the authority contained in 406(c)(1) of the National Housing Act, as amended (12 U.S.C. 1729(c)(1) (1982), the Federal Savings and Loan Insurance Corporation accepted the tender of the Commissioner of the appointment as receiver for Perpetual, for the purpose of liquidation, effective March 18, 1987.

Dated: March 18, 1987.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6283 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

Perpetual Savings Bank; Santa Ana, CA; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Perpetual Saving Bank, Santa Ana, California on March 18, 1987.

Dated: March 18, 1987.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6282 Filed 3-23-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communcating with the Commission regarding a pending agreement.

Agreement No. 224-011080.

Title: Philadelphia Terminal Agreement.

Parties: Philadelphia Port Corporation (Port), I.T.O. Corporation (ITO).

Synopsis: The proposed agreement would permit ITO to operate the Port's Tioga I Container Terminal for an initial period of six months. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: March 19, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-6243 Filed 3-23-87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Zip Feed Mills, Inc.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) held by Zip Feed Mills, Inc. One NADA provides for use of a tylosin Type A article for making Type C swine feeds, the other for a hygromycin B Type A article for making Type C swine and chicken feeds. The firm requested the withdrawal of approvals.

EFFECTIVE DATE: April 3, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3184.

SUPPLEMENTARY INFORMATION: Zip Feed Mills, Inc., P.O. Box 500, Sioux Falls, SD 57117, is the sponsor of NADA 97–259 which provides for use of a Type A article containing 0.4, 2, 4, or 10 grams per pound of tylosin (as tylosin phosphate) to make Type C swine feeds for use as in 21 CFR 558.625(f)(1)(vi)(*a*). The NADA was originally approved October 16, 1974 (39 FR 36961.). By letter of November 11, 1986, the sponsor requested withdrawal of approval because the product no longer requires an NADA for its manufacture.

Zip Feed Mills is also sponsor of NADA 132–916 which provides for use of 2.4- and 8-gram-per-pound hygromycin B Type A articles to make a 0.6-gram-per-pound Type A article subsequently used to make Type C swine and chicken feeds for use as in 21 CFR 558.274(c)(1) (i) and (ii). The NADA was originally approved March 8, 1983 (48 FR 9640). By letter of November 11, 1986, the sponsor requested withdrawal of approval because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 97–259 and 132–916 and all supplements thereto are hereby withdrawn, effective April 3, 1987.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing those portions of the regulations that reflect these approvals and is removing the firm from the list of sponsors of approved NADA's.

Dated: March 17, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–6245 Filed 3–23–87; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Committee on Vital and Health Statistics, Subcommittee on Data Gaps in Disease Prevention and Health Promotion; Meeting.

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Data Gaps in Disease Prevention and Health Promotion established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Saturday, April 11, 1987 from 5:00 p.m. to 7:00 p.m. in Tower Room 2, Westin Peachtree Plaza Hotel, Peachtree and International Boulevard, Atlanta, Georgia.

The public discussion will focus on draft recommendations of the Subcommittee to the National Committee on Vital and Health Statistics regarding State and local data needs for the Objectives for the Nation.

Further information regarding this meeting of the Subcommittee may be obtained by contacting Ronald W. Wilson, National Center for Health Statistics, Room 2–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301)436–7032.

Dated: March 11, 1987.

Robert A. Israel

Deputy Director, National Center for Health Statistics.

[FR Doc. 87–6342 Filed 3–23–87; 8:45 am]

BILLING CODE 4160–17–M

Bureau of Indian Affairs

Near Reservation Designations

March 11, 1987.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

In accordance with Title 25—Indians, Chapter 1—Bureau of Indian Affairs, Department of the Interior, Subchapter D—Social Welfare, § 20.24—Family and Community Service (25 CFR 20.24) the Assistant Secretary—Indian Affairs has designated a certain locale as a "Near reservation" location appropriate for the extension of Bureau of Indian Affairs social services. The locale listed below by Bureau Agency Office jurisdiction is designated for this purpose:

Agency	Reservation-tribe	"Near Reservation" location
Siletz, Siletz, Oregon.	Confederated Tribe of the Siletz Indians.	Counties of Washington, Clackamas, and Multnomah (all of the above within the State of Oregon).

25 CFR 20.24 *Family and Community Services* program regulations have full force and effect when extending Bureau of Indian Affairs services to Indian members of the above tribes (and to members of their family who are Indian) who reside in the above designated "Near reservation" location specified for their tribe and reservation. These regulations become effective immediately upon publication in the **Federal Register**.

Further information about these "Near reservation" designations may be obtained from the Acting Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, DC 20245, telephone (202) 343–6434.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 87–6307 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Filing of Plat of Survey; New Mexico

March 12, 1987.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on March 12, 1987.

A survey representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 22, and the metes and bounds survey of certain Indian Trust Lands in section 22, Township 17 North, Range 3 East, Indian Meridian, Oklahoma, under Group 40 OK.

The survey was requested by the Area Director, Bureau of Indian Affairs, Anadarko, Oklahoma.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief Branch of Cadastral Survey.

[FR Doc. 87–6228 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–FB–M

Filing of Plat of Survey; New Mexico

March 12, 1987.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on March 12, 1987.

A supplemental plat showing lot 38, section 1, Township 20 North, Range 9 East, New Mexico Principal Meridian, New Mexico, under Group 781.

The survey was requested by the District Manager, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from the office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief Branch of Cadastral Survey.

[FR Doc. 87-6287 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-FB-M

Filing of Plat of Survey; New Mexico

March 12, 1987.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m on March 12, 1987.

A survey representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, the subdivision of section 18, and the survey of the right-of-way of U.S. Highway No. 70 through section 18, Township 22 South, Range 3 East, New Mexico Principal Meridian, New Mexico, under Group 862 NM.

The survey was requested by the Deputy State Director, Division of Lands and Renewable Resources, New Mexico State Office.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 87-6288 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-FB-M

Filing of Plat of Survey; New Mexico

March 12, 1987.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m on March 12, 1987.

A survey representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of section lines in section 24, the subdivision of section 24, and a metes and bounds survey of certain lot boundaries in section 24, Township 5 North, Range 10 West, Indian Meridian, Oklahoma, under Group 40 OK.

The survey was requested by the Area Director, Bureau of Indian Affairs, Anadarko, Oklahoma.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief Branch of Cadastral Survey.

[FR Doc. 87-6289 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-FB-M

[NV-010-07-4322-02]

Nevada; Elko District Advisory Council; Meeting

In accordance with Public Law 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579 the Federal Land Policy and Management Act, notice is hereby given that the BLM Elko District Advisory Council will meet at 9:00 a.m. on April 23, 1987 at the Elko District Office at 3900 East Idaho Street, Elko, Nevada.

Topics to be discussed are: (1) Range Monitoring; (2) Status of Wilderness Study Areas on BLM Administered Land in Elko District; (3) Mining in Elko County; (4) Ruby Valley Lands Issues and other Desert Land Entries; and (5) Rehabilitation of Burned Areas.

The public is welcome to attend. Anyone wishing to make a statement to the Council may do so, however, they should contact Michele Good, BLM, Elko District, P.O. Box 831, Elko, Nevada 89801, or call 702-738-4071 no later than April 20, 1987, so that arrangements for the time may be made.

Summary minutes of the meeting will be prepared and available for public inspection or reproduction during regular business hours within 30 days following the meeting.

Rodney Harris,

District Manager.

[FR Doc. 87-6284 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-HC-M

[UT-050-07-4333-11]

Annual Use Fee; Little Sahara Recreation Area, UT

AGENCY: Bureau of Land Management, Richfield, Utah, Interior.

ACTION: Announcement of Final Annual Use Fee.

SUMMARY: The Richfield District, in accordance with 43 CFR 8372.4 and as stated in the Special Recreation Permit Policy, is adopting an annual use fee for the Little Sahara Recreation Area. This annual use fee is $35.00 for the first vehicle and should a person wish to register a second vehicle, an additional $15.00 would be charged. The fee is for the calendar year of 1987 and applies only to the Little Sahara Recreation Area.

The fee for daily use remains the same, $4.00 per day, however, the definition of a day's use is changed. In the past a day's use was defined as midnight to midnight, it is now changed to be from 2:00 pm to 2:00 pm.

These designations are published as, final effective immediately, and will remain in effect until rescinded or modified by the authorized officer. An appeal may be filed under 43 CFR Part 4 Subpart E within 30 days of publication in the **Federal Register.**

Donald L. Pendleton,

District Manager.

March 16, 1987.

[FR Doc. 87-6285 Filed 3-12-87; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-130-07-4830-12; GP7-143]

Spokane District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Spokane district advisory council will be held on April 23, 1987. The meeting will begin at 10:00 a.m. in the conference room of the BLM Spokane district office, East 4217 Main Avenue, Spokane, Washington.

The Agenda for the meeting is as follows:

1. Opening remarks and general business.
2. Status of Resource Management Plan (RMP).
3. Status of BLM land exchange program in Washington.
4. Review of Riparian initiatives.
5. Review of FY 1987 programs.
6. Briefing on the OR/WA Reorganization Study.
7. Public comment period begins about 11:30 a.m. Any responsible person wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202, or telephone (509) 456-2570 by the close of business, 4:30 p.m., Friday, April 17, 1987. Depending on the number of persons wishing to make oral

statements, a per person time limit may be established by the District Manager.

A written report of the Council Meeting will be maintained at the BLM Spokane District Office and will be made available for public inspection. Reproduction of the meeting report will be made available to the public at the cost of duplication. The meeting is open to the public and news media.

Dated: March 18, 1987.

Joseph K. Buesing,

District Manager.

[FR Doc. 87-6387 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7313, with copies to Norman J. Hess; Acting Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Quarterly Oil Well Test Report, Form MMS-1869.

Abstract: Respondents submit Form MMS-1869 to the Minerals Management Service's Regional Supervisors so they can evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to provide a quarterly test of oil-well capacity for use in updating permissible producing rates and to provide the basis for estimates of currently remaining recoverable reserves.

Bureau Form Number: Form MMS-1869.

Frequency: Quarterly.

Description of Respondents: Federal oil and gas lessees performing offshore operations under Outer Continental Shelf Order No. 11, "Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights"; 30 CFR 250.16, Well potentials and permissible flow; and 30 CFR 250.39, Tests, surveys, and samples.

Annual Responses: 8,400.

Annual Burden Hours: 16,800.

Bureau Clearance Officer: Dorothy Christopher, (703) 435-6213.

Dated: March 2, 1987.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 87-6290 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7313, with copies to Norman J. Hess; Acting Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Semiannual Gas Well Test Report, Form MMS-1870

Abstract: Respondents submit Form MMS-1870 to the Minerals Management Service's Regional Supervisors so they can evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest estimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to permit the updating of permissible producing rates and provide the basis for estimates of currently remaining recoverable gas reserves.

Bureau Form Number: Form MMS-1870.

Frequency: Semiannually.

Description of Respondents: Federal oil and gas lessees performing offshore operations under Outer Continental Shelf Order No. 11, "Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights"; 30 CFR 250.16, Well potentials and permissible flow; and 30 CFR 250.39, Tests, surveys, and samples.

Annual Responses: 6,000.

Annual Burden Hours: 12,000.

Bureau Clearance Officer: Dorothy Christopher, (703) 435-6213.

Dated: March 2, 1987.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 87-6291 Filed 3-23-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 7738, Block 274, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Leeville, Louisiana.

DATE: The subject DOCD was deemed submitted on March 13, 1987. Comments must be received on or before April 8, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie O. Gobert; Minerals

Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: March 16, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–6292 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4765, Block 311, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on March 13, 1987. Comments must be received on or before April 8, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for Public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 16, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–6293 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Concurrent Jurisdiction in Pima County, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given that, effective July 22, 1986, concurrent criminal jurisdiction was established over Federally owned or controlled lands and waters administered by the National Park Service within Saguaro National Monument and Organ Pipe Cactus National Monument situated in Pima County in the State of Arizona.

Concurrent jurisdiction was ceded to the United States by letter dated May 12, 1986 from the Honorable Bruce Babbitt, Governor of the State of Arizona, pursuant to Arizona Revised Statutes Section 37–620, and accepted on July 22, 1986 by William Penn Mott, Jr., Director of the National Park Service, pursuant to applicable Federal statutory law.

Dated: March 18, 1987.

William Penn Mott, Jr.,

Director, National Park Service.

[FR Doc. 87–6393 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 14, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 8, 1987.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Yuma County

Yuma, *Cactus Press—Plaza Paint (Yuma MRA)*, 30–54 E. Third St.

Yuma, *Southern Pacific Freight Depot (Yuma MRA)*, Main St.

FLORIDA

Dade County

Goulds vicinity, *Silver Palm Schoolhouse*, Silver Palm Dr. and Newton Rd.

Manatee County

Bradenton, *Bradenton Carnegie Library*, 1404 Fourth Ave., W.

Volusia County

Daytona Beach, *Abbey, The*, 426 S. Beach St.

KENTUCKY

Kenton County

Covington, *Ohio Riverside Historic District (Boundary Increase)*, Along sections of

Greenup St., Court Ave., Third and Fourth Sts.

Woodford County

Versailles, *Scearce House*, McCracken Pike

MISSISSIPPI

Jackson County

Ocean Springs, *Bertuccini House and Barbershop (Ocean Springs MRA)*, 619–619A Washington Ave.
Ocean Springs, *Carter-Callaway House (Ocean Springs MRA)*, 916 State St.
Ocean Springs, *Cochran—Cassanova House (Ocean Springs MRA)*, 900 Robinson St.
Ocean Springs, *Halstead Place (Ocean Springs MRA)*, E. Beach Dr.
Ocean Springs, *Hansen—Dickey House (Ocean Springs MRA)*, 108 Shearwater Dr.
Ocean Springs, *House at 1112 Bowen Avenue (Ocean Springs MRA)*, 1112 Bowen Ave.
Ocean Springs, *House at 1410 Bowen Avenue (Ocean Springs MRA)*, 1410 Bowen Ave.
Ocean Springs, *Indian Springs Historic District (Ocean Springs MRA)*, Iberville St., Church St., and Washington Ave., N.
Ocean Springs, *Keys, Thomas Isaac, House (Ocean Springs MRA)*, 1017 DeSoto Ave.
Ocean Springs, *Lover's Lane Historic District (Ocean Springs MRA)*, Lover's Lane
Ocean Springs, *Marble Springs Historic District (Ocean Springs MRA)*, Along Iberville Ave., between Washington Ave., N. and Sunset Ave.
Ocean Springs, *O'Keefe–Clark Boarding House (Ocean Springs MRA)*, 2122 Government St.
Ocean Springs, *Old Farmers and Merchants State Bank (Ocean Springs MRA)*, 998 Washington Ave.
Ocean Springs, *Old Springs High School (Ocean Springs MRA)*, Magnolia and Government St.
Ocean Springs, *Old Ocean Springs Historic District (Ocean Springs MRA)*, Roughly bounded by Porter and Dewey Aves., Front Beach Dr., Martin Ave., Cleveland St., and Rayburn Ave.
Ocean Springs, *Shearwater Historic District (Ocean Springs MRA)*, Shearwater Dr.
Ocean Springs, *St. John's Episcopal Church (Ocean Springs MRA)*, NW corner of Rayburn and Porter Ave.
Ocean Springs, *Sullivan–Charnley Historic District (Ocean Springs MRA)*, Shearwater Dr. and Holcomb Blvd.
Ocean Springs, *Vancleave Cottage (Ocean Springs MRA)*, 1302 Government St.

Jones County

Laurel, *Rogers, Newell, House*, 706 N. Sixth Ave.

MONTANNA

Deer Lodge County

Anaconda, *Anaconda Copper Mining Company Smoke Stack*, Anaconda Copper Smelter

Missoula County

Missoula, *Knowles Building*, 200–210 S. Third St., W.

Yellowstone County

Billings, *Molt, Rudolph F.W., House*, 39 Yellowstone Ave.

NEW JERSEY

Somerset County

North Plainfield, *Washington Park Historic District*, Roughly bounded by Green Brook Rd., Grove Ave., E. Front St., and Geraud Ave.

NORTH CAROLINA

Mecklenburg County

Charlotte, *Dilworth Historic District*, Roughly bounded by Myrtle, Morehead, Berkeley, Dilworth Rd. W. Charlotte, Park, Tremont, Cleveland and Renssalaer

VIRGINIA

Hanover County

Cedar Creek Meetinghouse Archeological Site (44HN119),

Lancaster County

Merry Point vicinity, *Verville*, VA 611

Lynchburg (Independent City)

Lower Basin Historic District, 700–1300 blks. of Jefferson St., 600–1300 blks. of Commerce St., and 1200–1300 blks. of Main St.

Richmond (Independent City)

Broad Street Commercial Historic District, Along Broad St. area roughly bounded by Belvidere, Marshall, Fourth and Grace

[FR Doc. 87–6394 Filed 3–23–87; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than April 3, 1987. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875–1573, IRM/PE, Room 1109, SA–14, Washington, DC 20523.

Date Submitted: March 19, 23, 1987.
Submitting Agency: Agency for International Development
Type of Submission: New
Title: Training Cost Analysis (TCA) System

Purpose: The Agency for International Development (A.I.D.) provides training in the U.S. for well over 15,000 students each year from Third World Countries. These "A.I.D. Participants" and their training programs are managed by 200 contractors. Contracts are let by A.I.D. Missions overseas, central and regional bureaus in Washington, DC, and the Office of International Training. The Agency has now developed a project management system which will standardize most aspects of the participant training process, including the definition of training activities to be provided by contractors for A.I.D. Participants; the submission of cost proposals in response to an RFP which identifies the costs of those services; and a cost reporting system which enables project managers to assure that contractors are keeping within their proposed budgets.

Respondents to an RFP will have a submission burden of one and a contractor will have an annual submissions burden of four.

Reviewer: Francine Picoult (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: March 18, 1987.

Fred D. Allen,

Planning and Evaluation Division.

[FR Doc. 87–6328 Filed 3–23–87; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF LABOR

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, Title III, Pub. L. 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Thursday, April 2, 1987, at 2:00 p.m., in the Secretary's Conference Room, S–2508, FPB.

Items to be discussed are:

- Federal Contractor Jobs Program (FCJP)
- Status of Veterans Job Training Act
- Update on JTPA Title IV(C)
- Homeless Veterans
- Employment Service Overview

The public is invited.

Signed at Washington, DC, this 18th day of March, 1987.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 87-6355 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-79-M

Office of the Assistant Secretary for Veterans' Employment and Training

Solicitation for Grant Application; Job Training Partnership Act, Title IV, Part C, Program Year 1987

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Notice.

SUMMARY: This notice sets forth the procedures and schedule for the Solicitation for Grant Applications (SGA) for the operation of employment and training programs for Program Year (PY) 1987 (July 1, 1987—June 30, 1988) in accordance with Title IV, Part C, of the Job Training Partnership Act (JTPA). The regulations at 20 CFR Part 635 provide guidance for the development and administration of programs authorized under this part.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Bachman, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue, NW., Room S-1316, Washington, DC., (202) 523-9110, or the appropriate State Director for Veterans' Employment and Training Service.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, announces the availability, subject to Congressional appropriation, of approximately $8,062,000 for FY 1987 and the schedule for Solicitation of Grant Applications and award of funds to implement programs authorized under Title IV, Part C, of JTPA.

On March 20, the Assistant Secretary for Veterans' Employment and Training mailed to all eligible applicants, a Solicitation for Grant Applications package consisting of:

Part A—General Program Information and Requirement for Application for Funds Under Title IV, Part C, JTPA

Part B—Instructions and Forms for Preparation and Submission of Applications.

Eligible applicants are limited to the State JTPA Administrative entity in each State. This is a change from previous Program Years; Service Delivery Areas designated by the Governor were also eligible to apply. The reasons for this change were published in Volume 52, Number 25, of the **Federal Register** on Friday, February 6, 1987, at page 3892.

The Solicitation for Grant Applications contains proposed funding levels for each State, subject to Congressional appropriation, ranging from $55,000 to $823,000. Award of funds will be made utilizing criteria for award specified in the Solicitation. No grant will be awarded prior to July 1, 1987.

Applications for funds must be received by the appropriate State Director for Veterans' Employment and Training Service (SDVETS) not later than 4:30 p.m., at the SDVETS address cited below, on April 18, 1987.

SDVETS James C. Gates, Veterans' Employment and Training Service, U.S. Department of Labor, 519 Industrial Relations Building, Montgomery, Alabama 36130

SDVETS Burton Finley, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3-7000, Juneau, Alaska 99802

SDVETS Marco A. Valenzuela, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 6123-SC760E, Phoenix, Arizona 85005

SDVETS Billy R. Threlkeld, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 128, Little Rock, Arkansas 72201

SDVETS Charles Martinez, Veterans' Employment and Training Service, U.S. Department of Labor, 800 Capital Mall, Room W2054, P.O. Box 942880, Sacramento, California 95814

SDVETS E. William Belz, II, Veterans' Employment and Training Service, U.S. Department of Labor, 251 East 12th Avenue, Room 342, Denver, Colorado 80203

SDVETS Robert B. Inman, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109

SDVETS Horace H. Best, Veterans' Employment and Training Service, U.S. Department of Labor, Stockton Bldg., Room 104, 100 Chapman Road, Newark, Delaware 19702

SDVETS George H. Joiner, Veterans' Employment and Training Service, U.S. Department of Labor, 500 C Street, Room 327, Washington, DC 20001

SDVETS Robert I. Clark, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1314, Tallahassee, Flordia 32302

SDVETS Eugene R. Wagner, Veterans' Employment and Training Service, U.S. Department of Labor, IBEW Building, Suite 419, 501 Pulliam Street, SW., Atlanta, Georgia 30312

SDVETS Raymond S. Sumikawa, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3680, Honolulu, Hawaii 96811

SDVETS Robert N. Wilson, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2967, Boise, Idaho 83701

SDVETS Samuel L. Parks, Veterans' Employment and Training Service, U.S. Department of Labor, 401 S. Park Street, 2 North, Chicago Illinois 60605

SDVETS D. Bruce Redman, Veterans' Employment and Training Service, U.S. Department of Labor, 10 N. Senate Avenue, Room 203, Indianapolis, Indiana 46204

SDVETS Leonard E. Shaw, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 1000 East Grand Avenue, Des Moines, Iowa 50319

SDVETS John A. Hill, Veterans' Employment and Training Service, U.S. Department of Labor, 401 Topeka Boulevard, Topeka, Kansas 66603

SDVETS H. John Krider, Veterans' Employment and Training Service, U.S. Department of Labor, 275 East Main Street, Frankfort, Kentucky 40621

SDVETS Robert Martin, Veterans' Employment and Training Service, U.S. Department of Labor, 1001 N. 23rd Street, Rm. 242, Baton Rouge, Louisiana 70804

SDVETS William J. Rogers, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3206, Lewiston, Maine 04240

SDVETS Gary D Lobdell, Veterans' Employment and Training Service, U.S. Department of Labor, 1100 North Eutaw St., Room 205, Baltimore, Maryland 21200

SDVETS Richard A. Brenan, Veterans' Employment and Training Service, U.S. Department of Labor, 506 JFK Federal Building, Boston, Massachusetts 02203

SDVETS William Wickstrom, Veterans' Employment and Training Service, U.S. Department of Labor, 7301 Woodward Avenue, Ste. 407, Detroit, Michigan 48202

SDVETS Michael D. Graham, Veterans' Employment and Training Service, U.S. Department of Labor, 160 E. Kellog Blvd., Ste. 840, St. Paul, Minnesota 55101

SDVETS W. H. (Bill) Cooper, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1699, Jackson, Mississippi 39215

SDVETS Jonas N. Matthews, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 59, Jefferson City, Missouri 65104
SDVETS Daniel P. Antonietti Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1728, Helena, Montana 59624
SDVETS Robert T. Manifold, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 94600, State House Station, Lincoln, Nebraska 68509
SDVETS Claude U. Shipley, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3331 Reno, Nevada 89505
SDVETS Emile Simard, Veterans' Employment and Training Service, U.S. Department of Labor, 55 Pleasant St., Room 325, Concord, New Hampshire 03301
SDVETS Leon G. Scull, Veterans' Employment and Training Service, U.S. Department of Labor, Labor Industry Building, John Fitch Plaza, Room 1106, Trenton, New Jersey 08625
SDVETS Jacob Castillo Veterans' Employment and Training Service, U.S. Department of Labor, 1st National Bldg., East, 5301 Central, NE., Rm., 1214, Albuquerque, New Mexico 87108
Veterans' Employment and Training Service, U.S. Department of Labor, Harriman State Campus, Building 12, Room 503, Albany, New York 12240
SDVETS S Marvin Burton, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 27625, Raleigh, North Carolina 27611
SDVETS Leo A. Swenson, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1632, Bismarck, North Dakota 58501
SDVETS Joseph Andry, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1618 Columbus, Ohio 43216
SDVETS James D. Howard, Veterans' Employment and Training Service, U.S. Department of Labor, Will Rogers Memorial Building, Room 301, Oklahoma City, Oklahoma 73105
SDVETS Rex A. Newell, Veterans' Employment and Training Service, U.S. Department of Labor, 304 Employment Division Building, 875 Union Street, NE., Salem, Oregon 97311
SDVETS Joseph F. Welsh, Veterans' Employment and Training Service, U.S. Department of Labor, Labor & Industry Bldg., Room 1112, Harrisburg, Pennsylvania 17121
SDVETS Rafael Pujals, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 14337, Bo Obrero Station Santurce, Puerto Rico 00916
SDVETS Arthur L. Dawson, Jr. Veterans' Employment and Training Service, U.S. Department of Labor, 507 Federal Bldg. & Courthouse, Providence, Rhode Island 02903
SDVETS William C. Plowden, Jr. Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1755, Columbia, South Carolina 29202
SDVETS Earl R. Schultz, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 1730, Aberdeen, South Dakota 57401
SDVETS Clayton Lamberth, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 301 James Robertson Parkway, Rm. 317, Nashville, Tennessee 37201
SDVETS James H. Cornett, Veterans' Employment and Training Service, U.S. Department of Labor, TEC Building, Rm. 516–B, Austin, Texas 78701
SDVETS J. Dale Madsen, Veterans' Employment and Training Service, U.S. Department of Labor, 178 Social Hall Avenue, Salt Lake City, Utah 84111
Veterans' Employment and Training Service, U.S. Department of Labor, Montpelier, Vermont 05602
SDVETS Benjamin I. Trotter, Jr., Veterans' Employment and Training Service, U.S. Department of Labor, 701 E. Franklin Street, Ste. 1409, Richmond, Virginia 23219
SDVETS Robert G. Hall, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 165, Olympia, Washington 98507
SDVETS David L. Bush, Veterans' Employment and Training Service, U.S. Department of Labor, 112 California Avenue, Rm. 212, Charleston, West Virginia 25305–0112
SDVETS James R. Gutowski, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2539, Madison, Wisconsin 53701
SDVETS Ernest E. Fender, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 2760, Casper, Wyoming 82602

Consultation and technical assistance relative to the development of an application is available upon request from the appropriate SDVET.

Signed at Washington, DC, this 18th day of March, 1987.

Donald E. Shasteen,

Assistant Secretary of Labor.

[FR Doc. 87–6366 Filed 3–23–87; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administration

[TA–W–18,546]

Central Foundry Division of General Motors Corp.; Massena, NY; Negative Determination Regarding Application for Reconsideration

After being granted a filing extension, the United Auto Workers (UAW) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing castings at the Central Foundry Division of General Motors Corporation, Massena, New York. The denial notice was signed on December 22, 1986 and published in the **Federal Register** on January 21, 1987 (52 FR 2304).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the Department erred in the time period used in its investigation. It claims the applicable time period should be August 6, 1986, the announcement date of the phaseout at the Central Foundry Division in Massena, to November, 1988, when the phaseout is to be completed. The union also claims that Ford AXOD transmission production was awarded to a Japanese firm in January, 1987 with layoffs at Massena in 1987. Newspaper clippings and other attachments provided in the union's reconsideration application show increased imports of automobiles which affected transmission production and a decrease in castings production in 1986 at Massena.

The Group Eligibility Requirements in section 222 of the Trade Act of 1974 require that all three group criteria be met during the time period applicable to the petition as a condition for certification. The three criteria are: (1) Significant worker separations or threat thereof; (2) absolute decrease in sales or production at the workers' firm and (3) increased imports of articles like or

directly competitive with the articles produced contributing importantly to declines in production and/or sales and to employment.

Investigative findings show that the Massena plant produced aluminum castings for transmission cases, pistons and cylinder heads and that there was no absolute decrease in production or sales during the time period applicable to the petition. Sales and production at the Massena plant increased in 1985 compared to 1984. Division-wide production of aluminum castings increased in the January-October period of 1986 compared to the same period in 1985. Production declines occurring at Massena during the January-October period of 1986 were offset by increasing production at the Indiana plant during the same time period. Potential or future loss of production and sales beyond that time period would not satisfy the decreased production or sales criterion. The Department's investigation covered the period 1985 through October, 1986; the period for which company data was available. Accordingly, production declines and worker separations in December, 1986 and in 1987 are beyond the purview of the facts obtained during the investigation.

Investigative findings also show that the Massena plant and the Bedford, Indiana plant are the only two plants of the GM Foundry Division producing aluminum castings. Aluminum castings for transmission cases represented the major share of the production at the Massena plant in 1986. The aluminum castings were shipped to GM's Hydramatic Division at Willow Run and Warren, Michigan. Pistons represented a minor share of Massena's 1986 production. Piston production was shipped to GM Buick, Oldsmobile and Cadillac (BOC) plants in Lansing, Michigan. Cylinder head production was shipped to GM Chevrolet, Pontiac and Canada (CPC) plants in Flint, Michigan and Tonawanda, New York. Workers at the Massena plant were not separately identifiable by product. GM did not import like or directly competitive parts with those produced at the Massena plant. Further, none of the workers at plants using components produced at the Massena plant were independently certified for adjustment assistance.

Because GM imports or like or directly competitive products are not a factor and workers at other GM plants assembling final products using components produced at Massena are not certified eligible to apply for adjustment assistance, a new petition at this time would not result in a certification based on integrated production of transmissions or automobiles.

The union's claim that imports of automobiles have adversely affected employment at the Massena plan would not satisfy the statutory requirements for certification. According to the Trade Act, imports of the articles produced at the workers' firm must be considered rather than the final article(s) which incorporate the component(s) produced at the workers' firm. The courts have concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506 F 2d 174 (D.C. Cir., 1974). Since increased imports of articles like or directly competitive with those produced by the Massena plant could not be substantiated during the time period applicable to the worker petition, the workers eligibility requirements in the Trade Act were not met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of March 1987.

Robert O. Deslongchamps,

Director, Office of Legislative and Actuarial Services, UIS.

[FR Doc. 87–6359 Filed 3–23–87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,027, TA-W-18,028, and TA-W-18,029]

Mobil Oil Corp.; Ventura; Kern (Bakersfield); and San Ardo, CA; Negative Determination Regarding Application for Reconsideration

By an application dated February 2, 1987, one of the petitioners requested administrative reconsideration of the Department's negative determinations on the subject petitions for trade adjustment assistance filed of behalf of workers at Mobile Oil Corporation, Ventura, Kern and San Ardo, California. The denial notices were signed on January 13, 1987 and published in the **Federal Register** on February 19, 1987 (52 FR 5210).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that the Kern and San Ardo facilities did not increase production as reported in the Department's notice and that it is not appropriate to credit all the transported oil to Mobil Oil Corporation when other companies are using the same pipeline.

In order for a worker group to become certified eligible to apply for adjustment assistance it must meet all three group eligibility criteria of the Group Eligibility Requirements of the Trade Act of 1974. Findings in the investigation did not substantiate that increased imports of crude oil contributed importantly to worker separations. The Department's denial is based on the fact that all the crude oil produced at the three subject sites is transported by company pipelines to a company refinery. The final products are sold to the market through a single distributing point in Torrance, California which is owned by the company. The Torrance facility does not receive any corporate purchased imports of crude oil or does it import crude oil from any other sources. The Torrance facility handles only domestically produced oil. Further, U.S. imports of crude oil decreased absolutely and relative to domestic shipments in 1985 compared to 1984. Mobil Oil Corporation's imports of crude oil decreased in the first half of 1986 compared to the first half of 1985.

Further, the fact that some of Mobil's oil went to a Texaco refinery in Anacortes, Washington would not form a basis for certification since Texaco is an independent company and not affiliated with Mobil Oil Corporation.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of March 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-6358 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,983]

Bureau of Engraving, Industrial Division, Minneapolis, MN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 20, 1987 in response to a worker petition received on January 20, 1987 which was filed the Graphic Communications International Union, Local 1-B, on behalf of workers and former workers of Bureau of Engraving, Incorporated, Industrial Division, Minneapolis, Minnesota. The workers produce printed circuit boards.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated. Signed at Washington, DC this 9th day of March 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-6363 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,903, TA-W-17,903A and TA-W-17,903B]

Conquest Exploration; Denver, CO, Midland, TX, Houston, TX; Reopening Investigation

By letter dated February 5, 1987, one of the petitioners requested that the Department reconsider its negative decision which was based on the fact that the Denver workers did not produce an article within the meaning of the Trade Act. The petitioner claims that Conquest Exploration is a producer of crude oil and sustained a decrease in crude oil sales in the last half of 1985 compared to the same period in 1984. The petitioner claims that the decline in sales is the result of increased imports of crude oil.

The petitioner's claims provide sufficient justification for the Department to reconsider its earlier decision on petition TA-17,903. Accordingly, the Department, on its own motion, is reopening its initial decision in order to determine whether Conquest Exploration was a producer of crude oil and whether workers at Conquest Exploration, Houston, Texas, met the Group Eligibility Requirements of Section 222 of the Trade Act of 1974. Signed at Washington, DC, this 12th day of March 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-6365 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,780]

LTV Steel Co., Houston Sales Office, Houston, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 16, 1987 in response to a worker petition which was filed on behalf of workers at the Houston, Texas Sales Office of LTV Steel Company.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any workeer whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 10th day of March 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-6364 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19, 175]

Rafferty Brown Steel Co., East Longmeadow, MA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 17, 1987 in response to a worker petition received on February 17, 1987 which was filed by United Steelworkers of America on behalf of workers at Rafferty Brown Steel Company, East Longmeadow, Massachusetts.

An active certification covering the petitioning group of workers remains in effect (TA-W-18, 705). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 13th day of March 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-6362 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; AKJ Industries et al. (Workers)

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 3, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 3, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 9th day of March 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/worker/firm)	Location	Date received	Date of petition	Petition No.	Article produced
AKJ Industries (Workers)	Merrillville, IN	3/9/87	2/6/87	19,279	Fuel for Steel Mills.
Amanta Diamond Co. (CO)	New York, NY	3/9/87	2/24/87	19,280	Rough Diamonds.
Belden & Blake Corp. (Workers)	N. Canton, OH	3/9/87	2/23/87	19,281	Produce Gas & Crude Oil.
Best Form Corp. (Workers)	Johnstown, PA	3/9/87	2/18/87	19,282	Sleepwear/Daywear Founda.
Black Clawson Co. (I.A.M.&A.W.)	Middletown, OH	3/9/87	2/24/87	19,283	Mach. for Pulp & Paper Ind.
Borg-Warner Auto. (UAW)	Muncie, IN	3/9/87	2/26/87	19,284	Mf. Transmiss./Transf. Cases.
Browning Thompson Waddell & Blank (Workers)	Odessa, TX	3/9/87	2/14/87	19,285	Sells Insurance.
C.R.C. Wireline Serv. (Workers)	Odessa, TX	3/9/87	2/25/87	19,286	Gun Assembly.
Carville Leather, Co. (ACTWU)	Johnstown, NY	3/9/87	2/24/87	19,287	Finished Leather.
Clicker City Corp. (CO)	Haverhill, MA	3/9/87	2/25/87	19,288	Cut Leather Pieces.
Clover Mining Inc. (U.M.W.A.)	Gilbert, WV	3/9/87	2/13/87	19,289	Coal.
Control Data Corp. (Workers)	St. Louis Park, MN	3/9/87	2/24/87	19,290	Printed Circuit Boards.
Digicon Geophys. Corp. (Workers)	Denver, CO	3/9/87	2/22/87	19,291	Seismic Data Proc. Serv.
Dilido Fashions (Workers)	Miami, FL	3/9/87	2/28/87	19,292	Men's Slacks & Shirts.
Dresser Indust., Inc. (Workers)	Houston, TX	3/9/87	2/10/87	19,293	Oilfield Equip.
Dual Drilling, Co. (Workers)	Dallas, TX	3/9/87	3/1/87	19,294	Drill for Oil Serv.
Exxon Co. (Workers)	Charleston, WV	3/9/87	2/27/87	19,295	Gasoline & Auto Parts.
F.M.C. Corp-Citrus Mach (IBBF)	Lakeland, FL	3/9/87	2/20/87	19,296	Juice Extractors.
Gilman Engineering, mgt. (Workers)	Jamesville, WI	3/9/87	2/24/87	19,297	Assembly Mach.
Grace Drilling Co. (Workers)	Odessa, TX	3/9/87	2/26/87	19,298	Oil & Gas Drilling.
H.R.H. Inc. (Workers)	Hazleton, PA	3/9/87	2/24/87	19,299	Women's Children's Dr.
Honeywell Braukmann (Workers)	Batavia, NY	3/9/87	2/16/87	19,300	Thermostat Valves, Pressure.
J.I. Case Co. (UAW)	Bettendorf, IA	3/9/87	2/25/87	19,301	Crawler Tractors.
J.I. Case Co. (UAW)	Rock Island, IL	3/9/87	2/26/87	19,302	Engines for Const. Equip.
Johnson Cont. Bat, Div. (UAW)	Atlanta, GA	3/9/87	2/16/87	19,303	Batteries.
Kaiser Coal Corp. (UMWA)	Sunnyside, UT	3/9/87	2/20/87	19,304	Metallurgical Coal.
Karg Brothers, Inc. (ACTWU)	Johnstown, NY	3/9/87	2/24/87	19,305	Tanned Leather & Fin.
Kolabco, Inc. (USWA)	Peru, IN	3/9/87	2/20/87	19,306	Metal Dining Room Furn.
Louisiana Pac. Corp. (Workers)	Haden Lake, ID	3/9/87	2/12/87	19,307	Wood Veneer.
N.A. Philips Lig., Corp. (IBEW)	Paris, TX	3/9/87	2/16/87	19,308	Lamp Components.
Natalie Apparel (Workers)	Windber, PA	3/9/87	2/17/87	19,309	Blouses/Jac. & Lad. Dr.
Neo-Seis, Inc. (Workers)	Billings, MT	3/9/87	2/26/87	19,310	Data Analysis.
Ohmeda (Workers)	El Paso, TX	3/9/87	1/30/87	19,311	Medical Equip.
Paker Drilling, Co. (Workers)	Tulsa, OK	3/9/87	2/18/87	19,312	Oil & Gas Drilling.
Parker Drilling, Co (Workers)	Tulsa, OK	3/9/87	2/24/87	19,313	Oil Service.
Phillips Petroleum Co (Workers)	Bellarie, TX	3/9/87	2/24/87	19,314	Managers Explo. & Prod. O/G.
Premix E.M.S (UAW)	Lancaster, OH	3/9/87	1/29/87	19,315	Plastic Exterior.
Rex Sportwear (I.L.G.W.U.)	Irvington, NJ	3/9/87	2/26/87	19,316	Sew Operation.
Riddle Oil Co (Workers)	San Antonio, TX	3/9/87	2/25/87	19,317	Oil & Natural Gas.
Speller Oil Corp. (Workers)	Oklahoma, CY, OK	3/9/87	2/28/87	19,318	Oil & Gas Production.
Stanco Insulation (Workers)	Roosevelt, UT	3/9/87	2/18/87	19,319	Serv. Insulat. Equip.
Superior Blasthole Bit (Workers)	Virginia, MN	3/9/87	2/26/87	19,320	Rotary Drill Rock Bits.
Texas Eastern Explo. (Workers)	Houston, TX	3/9/87	2/5/87	19,321	Crude Oil & Gas.
Total Petrol., Inc. (CO)	Denver, CO	3/9/87	2/3/87	19,322	Produce Gas & Crude Oil.
Trane Co. (The) (IAMAW)	La Crosse, WI	3/9/87	2/23/87	19,323	Lg. Central A/C Units.
U.S. Diversified Gp. (Workers)	Commerce Cy, CO	3/9/87	2/20/87	19,324	Steel Services.
U.S. Shoe Corp (CO)	Harrison, OH	3/9/87	2/23/87	19,325	Women's Footwear (Non-Rub).
Veritas Tech. Serv. (Workers)	Houston, TX	3/9/87	2/24/87	19,326	Certifica. & Inspect. Serv.
Virg. Crews Coal, Co. Alpine (Workers)	Laeger, McDowell Co. WV	3/9/87	2/26/87	19,327	Produces Coal & Coke.
Virg. Crews Coal, Co. Blueco (Workers)	Laeger, McDowell Co. WV	3/9/87	2/26/87	19,328	Poduces Coal & Coke.
Well Tech Inc. (Workers)	McAllen, TX	3/9/87	2/14/87	19,329	Oil & Gas Field Service.
Wood & Hyde Leather, Co (ACTWU)	Gloversville, NY	3/9/87	2/24/87	19,330	Leather Tanning & Finish.
Zale Manufacturing (CO)	New York, NY	3/9/87	2/24/87	19,331	Fine Jewelry.

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Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Geissler Knitting Mill (Workers), et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 3, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 3, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 3rd day of March 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Geissler Knitting Mill (Workers)	Hazelton, PA	3/2/87	2/18/87	TA-W 19,222	Sweat shirts/plants; t-shirts, tank tops.
Cut Fabrics, Inc. (Company)	Brooklyn, NY	3/2/87	2/17/87	TA-W 19,223	Pocket linings for men's and boys' apparel.
Viking Wire, Inc. (Workers)	Danbury, Ct	3/2/87	2/19/87	TA-W 19,224	Copper wire and insulation.
Ohmeda (IAMWA)	Madison, WI	3/2/87	2/17/87	TA-W 19,225	Medical anesthesia machines.
Fostona Glass Co. (Workers)	Moundsville, WV	3/2/87	1/27/87	TA-W 19,226	Pressed and decorated glassware.
Wisconsin Foundary and Machine Co. (IAMAW)	Madison, WI	3/2/87	2/17/87	TA-W 19,227	Iron castings.
Thermex Energy Corp. (Workers)	Biwabik, MN	3/2/87	2/19/87	TA-W 19,228	Blasting agents.
Southern Heel Co. (Workers)	Springfield, TN	3/2/87	2/18/87	TA-W 19,229	Plastic Shoe heels (women's).
Boise Cascade/Rumford Mill (Workers)	Rumford, ME	3/2/87	2/17/87	TA-W 19,230	Paper.
Essex Industrial (ICW)	Paulsboro, NJ	3/2/87	2/10/87	TA-W 19,231	Hydrofluoric acid.
Perry & Hilton Deerfield Strip #2 Mine (UMWOA)	Wyco, WV	3/2/87	2/12/87	TA-W 19,232	Metallurgical coal.
MacGregor Sporting Goods of Georgia (Company)	LaGrange, GA	3/2/87	2/5/87	TA-W 19,233	Basketballs and footballs.
Lakeside Bridge & Steel Co. (Company)	Milwaukee, WI	3/2/87	2/13/87	TA-W 19,234	Fabricated steel.
Olla Industries, Inc. (Company)	Fairview & Union City, NJ	3/2/87	2/2/87	TA-W 19,235	Ladies' handbags.
Posh & Associates (Workers)	Miami, FL	3/2/87	2/4/87	TA-W 19,236	Ladies' dresses and suits.
Walter Mfg. Division (Workers)	Ingleside, IL	3/2/87	2/13/87	TA-W 19,237	Transformers and steamers.
Heckett Div.-Harsco Corp. (Workers)	Provo, UT	3/2/87	2/11/87	TA-W 19,238	Metal recovery service.
L.B. Foster Company (Workers)	Struthers, OH	3/2/87	2/12/87	TA-W 19,239	Railroad track spikes.
Lake Shore, Inc. (Workers)	Kingsford, MI	3/2/87	2/18/87	TA-W 19,240	Cranes and boat handling equipment.
General Electric Supply Company (Workers)	Abilene, TX	3/2/87	2/9/87	TA-W 19,241	Sales office of electric equipment.
The French Oil Mill Machinery Co. (Workers)	Piqua, OH	3/2/87	2/11/87	TA-W 19,242	Custom built machinery presses.
Household Mfg., Inc. Eljer Plumbingware Div. (IMAW)	Marysville, OH	3/2/87	2/19/87	TA-W 19,243	Brass plumbing.
Harloc Products, Inc. (IUE)	West Haven, CT	3/2/87	2/19/87	TA-W 19,244	Lock and latch sets.
Penjac, Inc. (Workers)	Freeland, PA	3/2/87	2/20/87	TA-W 19,245	Men's outerwear.
General Motors (Workers)	Arlington, TX	3/2/87	2/10/87	TA-W 19,246	Auto assembly.
Lydall, Inc. (Workers)	Chicago IL	3/2/87	2/21/87	TA-W 19,247	Elastomar rubber products.
Crown Central Petroleum (Workers)	Midland, TX	3/2/87	2/13/87	TA-W 19,248	Crude oil.
Island Creek Coal Co. Beatrice Mine (UMWOA)	Oakwood, VA	3/2/87	2/13/87	TA-W 19,249	Mine metallurgical grade oil.
LTV Steel Atlanta Sales Office (Workers)	Atlanta, GA	3/2/87	2/10/87	TA-W 19,250	Steel products.
Bradford Office of Halliburton Services (Workers)	Bradford PA	3/2/87	1/27/87	TA-W 19,251	Oil and gas services.
Hartford Div. of Emhart Corp. (UAW)	Columbus, OH	3/2/87	2/13/87	TA-W 19,252	Glass making machinery.
Forest Hills Apparel (Workers)	Forest City, PA	3/2/87	2/13/87	TA-W 19,253	Women's sportswear.
F.C. Stickney, Inc. Casing (Workers)	Midland, TX	3/2/87	2/11/87	TA-W 19,254	Oil and gas production.
Kodak Corp. (Workers)	Bessemer, MI	3/2/87	2/11/87	TA-W 19,255	Fishing poles.
Grace Petroleum Corp (Workers)	Midland, TX	3/2/87	2/12/87	TA-W 19,256	Oil and gas production.
Columbia Hardwood & Moulding (Workers)	Tigard, OR	3/2/87	2/11/87	TA-W 19,257	Structural and decorative moulding.
Best Packers, Inc. Ham Dept. (Workers)	Hialeah, FL	3/2/87	2/13/87	TA-W 19,258	Ham.
C.E. Natco (Company)	New Iberia, LA	3/2/87	2/11/87	TA-W 19,259	Oil producing equipment.
C.E. Natco (Workers)	Harvey, LA	3/2/87	2/11/87	TA-W 19,260	Oil producing equipment.
C.E. Natco (Workers)	Electra, TX	3/2/87	2/11/87	TA-W 19,261	Oil producing equipment.
C.E. Natco (Workers)	Tulsa, OK	3/2/87	2/11/87	TA-W 19,262	Oil producing equipment.
Harve Benard (ILGWU)	NY, NY	3/2/87	2/3/87	TA-W 19,263	Ladies Apparel.
Linge Corp (SCIW-UBC)	Paris, TN	3/2/87	2/19/87	TA-W 19,264	Equit. for making Bricks.
Wester Co. of No. Am. (Workers)	Alice, TX	3/2/87	2/12/87	TA-W 19,265	Oilwell Recovery Serv.
J.M. Huber Corp. (Workers)	Midland, TX	3/2/87	2/20/87	TA-W 19,266	Oil & Gas Exploration and Prod.
Davis Cabinet Co (Carpenters & Joiners)	Nashville, TN	3/2/87	2/18/87	TA-W 19,267	Furniture.
Davis Cabinet Co. (Carpenters & Joiners)	Portland, TN	3/2/87	2/18/87	TA-W 19,268	Furniture.
Cameron Iron Workers (Workers)	Houston, TX	3/2/87	2/19/87	TA-W 19,269	Cast Iron Prod; Oilfield Eq.
Becton-Dickinson & Co. (IUE)	Rutherford, NJ	3/2/87	2/19/87	TA-W 19,270	Medical Supply Products.
Becton-Dickinson & Co. (IUE)	Parsipany, NJ	3/2/87	2/19/87	TA-W 19,271	Dist. Med. Supply Prod..
Amerada Hess S.E. Prod (Workers)	Lafayette, LA	3/2/87	2/20/87	TA-W 19,272	Explor. & Prod. Crude Oil.
Amerada Hess Gulf Expl. (Workers)	Lafayette, LA	3/2/87	2/20/87	TA-W 19,273	Explor. and Prod. Crude Oil.
Mobil Prod. TX&NM (Workers)	Midland TX	3/2/87	2/14/87	TA-W 19,274	Explor. and Prod. Crude Oil.
L.E. Carpenter & Co. (Workers)	Hazelton, PA	3/2/87	2/20/87	TA-W 19,275	Wall Covering.
Hayleyville Text. Mill (CO)	Haleyville, AL	3/2/87	2/24/87	TA-W 19,276	Ladies Intimate Apparel.
Bryant Electric (UE)	Bridgeport, CT	3/2/87	2/18/87	TA-W 19,277	Load Centers, Cir. P. Dev.
Burns Intl. Security (Workers)	Midland, TX	3/2/87	1/24/87	TA-W 19,278	Provide Security Serv.

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[TA-W-17,709]

Sportiva Ltd., New York, NY, and ABF Manufacturing, Queens, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 26, 1986 applicable to all workers of Sportiva LTD, New York, New York. The certification notice was published in the **Federal Register** on December 12, 1986 (51 FR 44847).

Based on an inquiry from the New York Department of Labor concerning the administration of the certification of workers at Sportiva LTD, the Department reviewed the investigative findings to ascertain whether workers at ABF Manufacturing should be included under the subject certification.

New findings show that ABF Manufacturing, Queens, New York was a production facility and had common ownership with Sportiva Ltd and worked exclusively for Sportiva Ltd. All production workers were laid off at ABF Manufacturing, Queens, New York in June, 1986.

Accordingly, the certification notice is amended to properly reflect the complete worker group by including all workers at ABF Manufacturing, Queens, New York under TA-W-17,709.

The intent of the certification is to cover all workers of Sportiva LTD, New York, New York and all workers of ABF Manufacturing, Queens, New York. The amended notice applicable to TA-W-17,709 is hereby issued as follows: All workers of Sportiva LTD, New York, New York and all workers of ABF Manufacturing, Queens, New York who became totally or partially separated from employment on or after June 23, 1985 and before July 14, 1986 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12th day of March 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Servics, UIS.

[FR Doc. 87-6361 Filed 3-23-87; 8:45 am]

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[TA-W-18, 756, et al.]

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Technicare et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 2, 1987—March 6, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-18,756; Technicare A Division of Johnson & Johnson, Solon, OH

TA-W-18,646; Whitaker Division, Ristance Corp., St. Joseph, MO

TA-W-18,945; Lauson Engine Division of Tecumseh Products, New Holstein, WI

TA-W-18,730; Milwaukee Dye & Bleach, Milwaukee, WI

TA-W-18,724; Hazle Garment, Inc., Hazelton, PA

TA-W-18,864; Cummins & Walker Oil Co., Inc., Corpus Christi, TX

TA-W-18,709; Italian Fashions, Hoboken, NJ

TA-W-18,863; Dix Steel Corp., Spokane, WA

TA-W-18,778; Jones & Lamson Machine Co., Inc., Springfield, VT

TA-W-18,789; Spirax Sarco, Inc., Allentown, PA

TA-W-18,577; General Electric Co., Schenectady, NY

TA-W-18,755; Alliana Drop Forging Co., Alliance, OH

The following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-18,981; Itmann Coal Co., Itmann, WV

U.S. imports of coal are negligible.

TA-W-18,874; Anwelt Corp., Fitchburg, MA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-18,975; Berry Metal Co., Harmony, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,141; Vetco Gray, Odessa, TX

U.S. Imports of Oilfield machinery did not increase as required for certification.

TA-W-19,119; W-K-M Division of Joy Manufacturing, Kilgore, TX

Ratio of imports to domestic shipments of oilfield machinery and equipment is less than one percent.

TA-W-19,169; Hamer Manufacturing Co., Midland, TX

U.S. imports of oilfield machinery are negligible.

TA-W-19,179; Pupco, Inc., Pampa, TX

U.S. imports of oilfield machinery are negligible.

TA-W-18,823; Weatherford U.S. Inc., Marine Crane Div., Houston, TX

U.S. imports of hydraulic Marine cranes are negligible.

TA-W-18,853; Ultramar Oil & Gas Limited, Houston, TX

U.S. imports of dry natural gas declined absolutely and relative to domestic shipment in the first three quarters of 1986 compared with the same period of 1985.

TA-W-18,799; Aristech Chemical Corp, Clairton, PA

The investigation revealed that criterion (1) and (2) has not been met. Employment at subject firm remained essentially the same with no layoff, in the January–July period of 1986 compared to the same period in 1985.

TA-W-19,140; Wyoming Casing Service, Dickinson, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,146; Impala Drilling Inc., College Station, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,149; Key Mud Engineering, Inc., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,151; Permian Bank, Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,152; Geomap, Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,156; Express Service, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,170; Seismic Prospecting of Denver, Inc., Englewood, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,177; NL Industries, Atlas Bradford Div., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,182; Betheta, Inc., Ripley, WV

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,971; Tretolite Chemical, Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,040; Comstock Engineering, Inc., Pittsburgh, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-18,854, Westland Oil Development Corp., Midland, TX

A certification was issued covering all workers of the firm separated on or after December 16, 1985.

TA-W-18,924; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Roswell, NM

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,925; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development, Bridgeport, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,926; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Bryan, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,927; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Cisco, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,928; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Dumas, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,929; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Leggett, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,930; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Mineral Well, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,931; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Rising Star, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,932; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Rockdale, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,933; Liquid Energy Corp., A Subsidiary of Mitchell Energy & Development Corp., Stinnett, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,959; Stone & Webster Oil Co., Houston, TX
A certification was issued covering all workers of the firm separated on or after December 20, 1985.

TA-W-18,851; Vanilla, Inc., Forest City, PA
A certification was issued covering all workers of the firm separated on or after December 12, 1985.

TA-W-18,852; Forest City Manufacturing Co., Inc., Forest City, PA
A certification was issued covering all workers of the firm separated on or after December 12, 1985.

TA-W-18,662; John I Paulding, New Bedford, MA
A certification was issued covering all workers of the firm separated on or after November 4, 1985 and before October 9, 1986.

TA-W-18,748; Rochester Film Co., Rochester, NY
A certification was issued covering all workers of the firm separated on or after December 1, 1985.

TA-W-18,800; Gordon of Philadelphia, Norristown, PA
A certification was issued covering all workers of the firm separated on or after December 10, 1985.

TA-W-18,782; Atlas Chain Co., West Pittston, PA
A certification was issued covering all workers of the firm separated on or after December 13, 1985 and before April 21, 1986.

TA-W-18,831; Sabine Corp., Denver, CO
A certification was issued covering all workers of the firm separated on or after December 18, 1985.

TA-W-18,721; Bender Brothers Sportswear, Inc., Bayonne, NJ
A certification was issued covering all workers of the firm separated on or after November 20, 1985 and before November 15, 1986.

TA-W-18,893; Mitchell Energy & Development Corp., Washington, DC
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,894; Mitchell Energy & Development Corp., Bridgeport, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,895; Mitchell Energy & Development Corp., Spring, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,896; Mitchell Energy & Development Corp., The Woodlands, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,760; Atlas Crankshaft Corp., South U.S. Route 23, South Union St., Fostoria, OH
A certification was issued covering all workers of the firm separated on or after November 29, 1985.

TA-W-19,032; Marathon Oil Co., Domestic Exploration Dept., Houston, TX
A certification was issued covering all workers of the firm separated on or after January 31, 1986.

TA-W-18,761; Do-Ray Lamp Co., Colorado City, CO
A certification was issued covering all workers of the firm separated on or after November 25, 1985.

TA-W-18,636; Fancy Stitchers, Skowhegan Division, Skowhegan, ME
A certification was issued covering all workers of the firm separated on or after November 10, 1985.

TA-W-18,649; New Dade Apparel, Inc., Hialeah, FL
A certification was issued covering all workers of the firm separated on or after November 25, 1985.

TA-W-18,914; MND Drilling Corp., Northern Div., Bridgeport, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,915; MND Drilling Corp., Southern Div., Magnolia, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,916; Oilworld Supply Co., Houston, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,917; Oilworld Supply Co., Bridgeport, TX
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,897; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Denver, CO
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,898; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., New Orleans, LA
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,899; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Columbus, OH
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,900; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Oklahoma City, OK
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,901; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Conneautville, PA
A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,903; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Bridgeport, TX
A certification was issued covering all

workers of the firm separated on or after December 24, 1985.

TA-W-18,902; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Decatur, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,904; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Ft. Worth, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,905; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Galveston, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,906; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Granado, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,907; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Houston, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,908; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Jacksboro, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,909; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Livingston, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,910; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Mineral Wells, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,911; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Sonora, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,912; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Thornton, TX

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,913; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., Douglas, WY

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA-W-18,913A; Mitchell Energy Corp. (A Subsidiary of) Mitchell Energy & Development Corp., The Woodlands, TX

A certification was issued covering all workers of the firm separated on or December 24, 1985.

I hereby certify that the aforementioned determinations were issued during the period March 2, 1987–March 6, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 10, 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-6357 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications; Additions to List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the labor surplus area list are effective February 1, 1987.

SUMMARY: The purpose of this notice is to announce additions to the list of labor surplus areas, which has been extended until further notice while the Department of Labor completes implementation of Pub. L. 99-272.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470, Attention: TEESS, Washington, DC 20213. Telephone: 202-535-0185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Order 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of Labor surplus areas on October 11, 1985 (50 FR 41606).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the list of labor surplus areas, effective February 1, 1987.

The following additions to the list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC, on March 3, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

(February 1, 1987)

Labor Surplus Area	Civil Jurisdiction Included
Alabama: Bessemer City	Bessemer City in Jefferson County.
North Dakota: Stark County	Stark County.
Texas:	
Balance of Ector County	Ector County less Odessa City.
Odessa City	Odessa City in Ector County.

[FR Doc. 87-6354 Filed 3-23-87; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Implementation of Policy Guidance System

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the implementation of a Job Training Partnership Act Policy Guidance System which will enable States to obtain official Employment and Training Administration concurrence with, or comments on, proposed policy decisions. The system will be used primarily to respond to audit/liability sensitive questions/issues.

EFFECTIVE DATE: March 24, 1987.

FOR FURTHER INFORMATION CONTACT: Dolores Battle, Administrator, Office of Job Training Programs, Employment and Training Administration, Room N4459, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–535–0236.

SUPPLEMENTARY INFORMATION: The Job Training Partnership Act (JTPA) Policy Guidance System, outlined below, will enable States to obtain acceptance by the Secretary of Labor pursuant to the JTPA regulations at 20 CFR 627.1 of guidelines, interpretations and definitions adopted by the Governor.

The policy guidance system will operate as follows:

- The Employment and Training Administration (ETA) will provide States with official concurrence with, or comments on, proposed policy decisions. ETA will not establish policy for areas which properly are the purview of the States.
- ETA will provide advance review/concurrence/approval of policy decisions when requested by States and will stand with the States if later questions arise on matters for which ETA has given advance concurrence.
- ETA will not prejudge the implementation of such policy decisions. If a state chooses not to implement or to implement its policy decision(s) in a manner other than that proposed, ETA's concurrence is negated.
- Requests for policy guidance and/or approval of proposed actions must include the State's proposed interpretation or disposition of the issue in question.
- In most instances, ETA will provide its advisory opinion only to the State from which the request is received. However, in situations where a positive or negative advisory opinion on a proposed policy decision is deemed to be applicable to all States, ETA will make its advisory position available to all.
- States should submit requests for policy guidance or advisory opinions to the: Administrator, Office of Job Training Programs, Employment and Training Administration, Room N4457, 200 Constitution Avenue, NW., Washington, DC 20210.
- Requests should be in sufficient detail to permit consideration without the need to request clarification or additional information from the State. Responses will generally be provided within 45 days of receipt of a request. If it is not possible to provide a final response within this timeframe, an interim response will be sent.

Signed at Washington, DC, on January 5, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87–6369 Filed 3–23–87; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87–28)]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee, Informal Executive Advisory Subcommittee.

DATE AND TIME: April 10, 1987, 8:30 a.m.—5 p.m.

ADDRESS: Capitol Gallery, Room 770, 600 Maryland Avenue, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1656).

SUPPLEMENTARY INFORMATION: The Space and Earth Science Advisory Committee's Executive Subcommittee will meet to consider future committee activities and membership. The Committee is chaired by Dr. Louis Lanzerotti and is composed of 5 members. The meeting will be closed Friday, April 10 at 1 p.m. to allow for a discussion on membership. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 10 persons including committee members and other participants).

Meeting

Open—except for a closed session as noted in the agenda below.

AGENDA

April 10, 1987.

8:30 a.m. Discussion of future Committee activities.

1 p.m. Closed Session.

5 p.m. Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

March 17, 1987.

[FR Doc. 87–6237 Filed 3–23–87; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment on the Arts; Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on April 6, 1987, from 9:00 a.m.–5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the Purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

March 17, 1987.

[FR Doc. 87–6294 Filed 3–23–87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–072, 50–407; License Nos. R–25, R–126; EA 86–136]

University of Utah, TRIGA and AGN Reactor Center; Order Imposing Civil Monetary Penalties

I

University of Utah (the licensee) is the holder of Operating License Nos. R–25 and 126 (the licenses) issued by the Nuclear Regulatory Commission (the Commission or NRC). The licenses authorize the licensee to operate the TRIGA and AGN reactors in accordance with the conditions specified therein.

II

An inspection of the licensee's activities under its licenses was conducted on June 9–12, 1986. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with the conditions of its license and NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated October 6, 1986. This Notice stated the nature of the violations, the provisions of the NRC requirements that were violated, and the amount of civil penalties proposed. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by two letters dated October 29, 1986. After consideration of the licensee's response and the arguments for mitigation of the proposed civil penalties contained therein, the Director, Office of Inspection and Enforcement, has determined, as set forth in the Appendices to this Order, that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

III

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, *it is hereby ordered that*:

The licensee pay civil penalties in the total amount of Three Thousand Dollars ($3,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

IV

The licensee may, within 30 days of the date of this Order, request a hearing. A request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of any request for hearing also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether, on the basis of such violations, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, the 13th day of March 1987.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix A—Evaluation and Conclusions

In its two October 29, 1986, responses to the Notice of Violation and Proposed Imposition of Civil Penalties issued October 6, 1986, the licensee admits certain of the violations, denies certain violations in whole or in part, and provides reasons why it believes that the civil penalties should be remitted. Provided below are: (I) A restatement of each violation assessed civil penalties and contested by the licensee, the licensee's response, and the NRC's evaluation of the licensee's response, (II) a summary of the licensee's arguments protesting the civil penalties and in support of remission or mitigation of the proposed penalties and the NRC's evaluation of these arguments, and (III) the NRC's conclusion.

I.A Restatement of Violation I.A.3

10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside of the confines of its plant or other place of use shall comply with the applicable requirements of the regulations appropriate to the mode of transportation of DOT in 49 CFR Parts 170 through 189.

49 CFR 171.2(b) requires, in part, that no person may transport a hazardous material in commerce unless that material is handled and transported in accordance with Subchapter C of 49 CFR.

49 CFR 173.475(j) requires, in part, that before each shipment of any radioactive materials package, the shipper shall ensure by examination or appropriate tests that external radiation and contamination levels are within the allowable limits specified in Subchapter C of 49 CFR.

Contrary to the above, on or about January 25, 1986, a radioactive reactor core component was transported from the University of Utah campus to a location in Salt Lake City without first conducting a radiological survey to determine external radiation or contamination levels.

Summary of Licensee's Response. The licensee denies that proper radiological surveys were not taken prior to the transport of the TRIGA reactor core support structure offsite. The licensee alleges that the Acting Reactor Supervisor performed an external readiation survey of the core support structure on January 20, 1986 but failed to properly document the survey until after the NRC inspection.

NRC Evaluation of Licensee's Response. The licensee's response of October 29, 1986, asserts only that an external radiation survey was performed. This bare assertion by the licensee in the absence of records of such a survey is not sufficient to demonstrate that an external radiation survey was performed. Regardless of whether the licensee performed an external survey, the licensee has not addressed in its response whether a survey was performed to assure that contamination levels were within the allowable levels. An adequate survey would also have included monitoring for contamination. The licensee has not provided sufficient information to warrant withdrawal of the violation. Therefore, the violation remains as proposed.

I.B Restatement of Violation I.B.1.a and I.B.1.d

10 CFR 20.201(b) requires that each licensee shall make or cause to be made such surveys as (1) may be necessary for the licensee to comply with the regulations in this part, and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above:

a. The radiological survey program regarding loose surface radioactive contamination and radiation dose rates conducted during 1985 and 1986 was not adequate to evaluate the extent of radiation hazards present in that it failed to identify loose surface contamination and radiation levels up to 100 times greater than ambient background levels in the reactor facility.

d. As of June 10, 1986, the licensee had not performed radiological surveys of the Merrill Engineering Building potable water supply that had been cross connected to the TRIGA reactor pool water recirculation system since 1983.

Summary of Licensee's Response. The licensee admits that the survey records were incomplete, i.e., that many details pertaining to radiation exposure rates or contamination levels were not recorded on the survey report. However, the licensee does not admit that the surveys themselves were inadequate.

The licensee denies that its failure to perform a survey of the potable water supply constitutes a violation of 10 CFR 20.201(b). The licensee states that surveys of the potable water supply would not be the most effective method of detecting or preventing cross-contamination of the potable water source since routine measurements of radioactivity in the reactor pool and continuous monitoring of the pool water level provide a better control and basis for analysis. The licensee states that surveys are necessary only if reverse flow from reactor pool to potable water supply were identified.

NRC Evaluation of Licensee's Response. The NRC maintains the survey records were unreasonable under the circumstances to evaluate the extent of radiation hazards since they contained insufficient detail and mistakes such that they were of no practical use for the purpose of radiological control. In the absence of further evidence to substantiate that the surveys were in fact properly accomplished in accordance with 10 CFR 20.201(b), Violation I.B.1.a remains as proposed.

The licensee's position that reactor pool monitoring makes potable water supply monitoring unnecessary cannot be accepted. Monitoring the potential source of a release is a necessary but not sufficient aspect of a monitoring program. Because valves can leak and pressures can change, it is necessary that potential release paths as well as sources be monitored. Therefore, Violation I.B.1.d remains as proposed.

II. Summary of Licensee's Request Protesting the Civil Penalties and in Support of Remission or Mitigation of the Civil Penalties

The licensee requrets remission or mitigation of the civil penalties based upn its prompt identification and reporting its corrective actions and its prior good performance. With regard to the three transportation violations in sectin I.A. of the Notice of Violatin (NOV), the licensee argues that since these violations resulted from a single incident, categorizing them as multiple occurrences is unjustified. Regarding the violations involving inadequate surveys in section I.B.1 of the NOV, the licensee maintains that these took place within a relatively short period of time and were corrected promptly. Furthermore, the licensee maintains that Violation I.A.1 (transporting the reactor core components without shipping papers) and Violation I.A.2 (transporting the reactor core component without proper labeling) resulted from a single error in judgment and should not be assessed a Severity Level III. The licensee further arques that violation I.B.2 (removing the core component and taking it to an unauthorized location) also stemmed from the same isolated incident causing the transporation violations and thus, the nature and number of violations do not warrant categorization as a Severity Level III.

NRC Evaluation of Licensee's Request

As noted in the letter of October 6, 1986 proposing the civil penalties, the escalation and mitigation factors were considered and no adjustments were deemed appropriate. Escalation was considered because multiple occurrences were identified. However, because of the licensee's prior record of good performance, escalation of the civil penalties was not proposed. With regard to the licensee's corrective actions, the staff concluded that these actions were no more than would be expected under the circumstances, and because these actions were neither unusually prompt nor extensive, mitigation of any of the proposed civil penalties for prompt and extensive corrective actions would not be warranted. Further, because the licensee did not identify or report these violations, no adjustment to the civil penalties for prompt identification and reporting would be appropriate.

The NRC staff agrees that the three transportation violations in section I.A. of the NOV did result from a single incident involving the transportation of radioactive material in the form of a TRIGA reactor core component. However, the NRC maintains that each of the transportation violations should be considered separately since each is a violation of a different transportation requirement. The NRC staff maintains that the transportation violations described in section I.A and the violations described in Section I.B, including Violation I.B.2, do warrant categorization as Severity Level III violations under Supplements V and VI, respectively.

III. NRC Conclusion

The licensee's arguments with respect to each violation have been fully considered. The NRC concludes that the alleged violations on which the civil penalties were based occurred as stated in the Notice of Violation and Proposed Imposition of Civil Penalties and that the licensee has not provided a sufficient basis for either mitigation or withdrawal of the civil penalties. Therefore, the NRC concludes that the civil penalties of Three Thousand Dollars ($3,000) should be imposed.

Appendix B—Evaluation and Conclusions for Violations Not Assessed Civil Penalties

Provided below are a restatement of the violations not assessed civil penalties contested by the licensee in Appendix A and Appendix B of the Notice of Violation and Proposed Imposition of Civil Penalties issued October 6, 1986, the licensee's responses, and the NRC's evaluations of the licensee's responses.

A. Restatement of Violation II.B in Appendix A

TRIGA Technical Specification 6.8, "Operating Procedures," requires, in part, that operating procedures shall be in effect for performing preventive maintenance and calibration tests on the reactor and associated equipment.

Contrary to the above, as of June 12, 1986, written procedures had not been established for maintenance work performed on the TRIGA reactor core upper support structure during December 1985 and January 1986.

Summary of Licensee's Response. The licensee denies the alleged violation. The licensee maintains that all work on the TRIGA upper core support structure was performed under previously existing procedures and new procedures that were submitted on January 31, 1986, and approved by the Reactor Safety Committee.

NRC Evaluation of Licensee's Response. The licensee's assertion that all work on the upper core support structure was performed under approved procedures is accepted. Therefore, this violation is withdrawn.

B. Restatement of Violation II.D in Appendix A

TRIGA Technical Specification 3.5 requires that the reactor shall not be operated unless the facility ventilation is operable, except for periods of time not to exceed 48 hours to permit repair or testing of the ventilation system. Technical Specification 5.6 states that "the facility is designed so that the ventilation system will normally maintain a negative pressure with respect to atmosphere to minimize uncontrollable leakage to the environment. The free air volume within the reactor building is confined when there is an emergency shutdown of the ventilation system." The Safety Analysis Report, section 4.6.2, Emergency Operation, states, "The outlet vent will be equipped with a by-pass HEPA filtration system which will be dampered into operation. This will provide a continuous filtered exhaust and maintain the reactor area . . . under negative pressure. The flow under filtering conditions will be such that a negative pressure of at least 0.1 inches of water will be maintained."

Contrary to the above, as of June 10, 1986, HEPA filters in the reactor ventilation system were not properly installed to ensure the requirements of Technical Specification 5.6 and section 4.6.2 of the Safety Analysis Report would be satisfied. The filter was installed so that it was not sealed to its mounting opening, the flow of air was in the wrong direction through the filter, and the filter was installed in the wrong orientation. The HEPA filters were in this configuration for a period of time exceeding 48 hours, and no documentation was available to verify that either an evaluation or in-place testing had been performed to ensure the system was operable.

Summary of Licensee's Response. The licensee admits that the filter was not adequately sealed to its mounting opening, thus violating the technical specification. However, the licensee denies part of this violation concerning the direction of air flow and the filter's orientation. The licensee provides information that the flow arrow on the HEPA filters indicates only the direction of flow when the filter was tested. The licensee also states that filter orientation does not affect filter efficiency. The licensee's corrective action indicates that the HEPA filter has been installed properly, and that written procedures for HEPA filter testing and maintenance will be reviewed by the Reactor Safety Committee.

NRC Evaluation of Licensee's Response. The licensee is correct that the flow of air was not in the wrong direction and the filter was not installed in the wrong orientation. Therefore, Violation II.D in Appendix A is amended accordingly. Although the flow of air was not in the wrong direction and the filter was not installed in the wrong orientation, the licensee has admitted that the filter was not adequately sealed to its mounting opening. Therefore, the violation as rewritten below occurred:

TRIGA Technical Specification 3.5 requires that the reactor shall not be operated unless the facility ventilation is operable, except for periods of time not to exceed 48 hours to permit repair or testing of the ventilation system. Technical Specification 5.6 states that "the facility is designed so that the ventilation system will normally maintain a negative pressure with respect to atmosphere to minimize uncontrollable leakage to the environment. The free air volume within the reactor building is confined when there is an emergency shutdown of the ventilation system." The Safety Analysis Report, Section 4.6.2, Emergency Operation, states, "The outlet vent will be equipped with a by-pass HEPA filtration system which will be dampered into operation. This will provide a continuous filtered exhaust and maintain the reactor area . . . under negative pressure. The flow under filtering conditions will be such that a negative pressure of at least 0.1 inches of water will be maintained."

Contrary to the above, as of June 10, 1986, HEPA filters in the reactor ventilation system were not properly installed to ensure the requirements of Technical Specification 5.6 and section 4.6.2 of the Safety Analysis Report would be satisfied. A filter was installed so that it was not sealed to its mounting opening. The HEPA filter was in this configuration for a period of time exceeding 48 hours, and no documentation was available to verify that either an evaluation or in-place testing had been performed to ensure the system was operable.

C. Restatement of Violation I.A.3 of Appendix B

License Condition 2.C(3) for the AGN-201 and TRIGA reactors states that: "The licensee shall maintain and fully implement all provsions of the Commission-approved physical security plan, including amendments and changes made pursuant to the authority of 10 CFR 50.54(p)." The approved physical security plan was revised as Revision 1 on July 28, 1980.

Chapter 1, Section 1.1 of the PSP states, in part, that door 2 (Reactor Supervisor Office & TRIGA Control Room) keys are controlled by the Mechanical and Industrial Engineering Office, physical plant, and the university key shop. These keys are only issued to staff of the university and no students are issued these keys. Keys to door 3 (AGN-201 and TRIGA Reactor Room 1001-E) are maintained by the reactor supervisor and only three keys are maintained. One key is retained by the reactor supervisor, another by the senior reactor operator, and the third is maintained in a locked box for use by authorized personnel during off-hour access.

Contrary to the above, on June 11, 1986, a student possessed a key to door 2 and 3, and the third key to the TRIGA and AGN-201 reactor room (Room 1001-E) was not being kept in a locked box, but was kept in an unsecured electrical fuse panel in a file cabinet in Room 1001-C.

Summary of Licensee's Response. The licensee denies the alleged violation concerning the possession of a controlled key to the reactor complex by an unauthorized student of the University of Utah. The licensee states that the student referenced by the NRC was a licensed reactor operator.

NRC Evaluation of Licensee's Response. The NRC had determined that the operator's possession of a door 2 key was not in violation of PSP. However, possession of a door 2 key by the Reactor Supervisor's daughter was a violation of the PSP. The Supervisor's daughter, although not enrolled in any reactor facility courses, wa a student at the University. The licensee is correct that the Reactor Supervisor's daughter did not possess a key to door 3, and Violation I.A.3 in Appendix B is amended accordingly. However, while the Supervisor's daughter did not have a door 3 key, she did have access to the unlocked fuse panel. Therefore, the violation remains, and is restated as follows:

License Condition 2.C(3) for the AGN-201 and TRIGA reactors states that:

"The licensee shall maintain and fully implement all provisions of the Commission-approved physical security plan, incluidng amendments and changes made pursuant to the authority of 10 CFR 50.54(p)." The approved physical security plan was revised as Revision 1 on July 28, 1980.

Chapter 1, section 1.1 of the PSP states, in part, that door 2 (Reactor Supervisor Office & TRIGA Control Room) keys are controlled by the Mechanical and Industrial Engineering Office, physical plant, and the university key shop. These keys are only issued to staff of the university and no students are issued these keys. Keys to door 3 (AGN–201 and TRIGA Reactor Room 1001–E) are maintained by the reactor supervisor and only three keys are maintained. One key is retained by the reactor supervisor, another by the senior reactor operator, and the third is maintained in a locked box for use by authorized personnel during off-hour access.

Contrary to the above, on June 11, 1986, a student possessed a key to door 2. Further, the third key to the TRIGA and AGN–201 reactor room (Room 1001–E) was not being kept in a locked box, but was kept in an unsecured electrical fuse panel in a file cabinet in Room 1001–C.

D. Restatement of Violation I.B.1 in Appendix B

Chapter 1, section 1.1 of the PSP states, in part, that laminated-fixed safety class windows provide a clear view of the reactor room (1001–E) from the Director's office (reactor supervisor's office, room 1001–A), and the AGN and TRIGA control rooms (rooms 1001 and 1001–D respectively).

Contrary to the above, as of June 9–11, 1986, 100 percent of the view afforded by the window in room 1001–A was obscured by a stack of empty soda pop cans placed on the window sill area, and approximately 50 percent of the view from room 1001 windows was obscured by a chart, the AGN–201 reactor console, and books which were stacked on the AGN–201 console.

Summary of Licensee's Response. The licensee denies the violation concerning the view afforded by the windows in room 1001 and 1001–A. The licensee states that the reactor rooms could be viewed through other windows in Room 1001, and that the Reactor Supervisor was on leave and his office, Room 1001–A, was being used by students who had no need to view the reactor room.

NRC Evaluation of Licensee's Response. The licensee has provided no basis for withdrawal of the violation. As stated in the Notice of Violation, at the time of the inspection the view of the reactor room from room 1001-A was totally obstructed and the view from room 1001 was significantly obstructed in that the majority of the individual windows in that room were substantially obstructed by materials stacked in front of them. Further, the Physicial Security Plan makes no allowance for the occupancy status of the rooms in determining whether a clear view of the reactor room exists.

[FR Doc. 87–6383 Filed 3–23–87; 8:45 am]
BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, WM 408–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Guidance for Selecting Sites for Near-Surface Disposal of Low-Level Radioactive Waste" and is intended for Division 4, "Environmental and Siting." It is being developed to provide guidance on conducting a site screening investigation for disposal sites for low-level radioactive waste.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both the draft guide and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Comments will be most helpful if received by May 29, 1987.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 18th day of March 1987.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Deputy Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 87–6385 Filed 3–23–87; 8:45 am]
BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.10, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Devices Containing Byproduct Material," provides guidance to manufacturers and distributors on submitting requests for the NRC's radiation safety evaluation and registration of devices containing radioactive byproduct material.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

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

Dated at Rockville, Maryland, this 18th day of March 1987.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research

[FR Doc. 87–6386 Filed 3–23–87; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Activities Under OMB Review; Proposed Revision of Standard Forms 85 and 86

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), this notice announces a proposed revision of two forms that collect information from the public. Both forms have been submitted to OMB for clearance.

(1) *Standard Form 85,* Questionnaire for Non-Sensitive Positions (formerly, Data for Non-Sensitive or Noncritical-Sensitive Position), is completed by applicants for and appointees to non-sensitive duties with the Federal Government. Respondents: 170,000. Burden: 85,000 hours.

(2) *Standard Form 86,* Questionnaire for Sensitive Positions (formerly, Security Investigations Data for Sensitive Position), is completed by persons performing or seeking to perform sensitive duties for the Federal Government. Respondents: 116,000. Burden: 92,800 hours.

The information collected on these forms is used by OPM to initiate background investigations required under Executive Order 10450, Security Requirements for Government Employment, issued April 27, 1953; required by Executive Order 10577 (5 CFR Rule V), issued November 23, 1954; or required by various Public laws.

For copies of either proposal, call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on these proposals should be received on or before April 3, 1987.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, Office of Personnel Management, Room 6410, 1900 E Street, NW., Washington, DC 20415

and

Richard Eisenger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peter Garcia, (202) 632–6181.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 87–6262 Filed 3–23–87; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15626; 812–6557]

American Pioneer Collateralized Mortgage Obligations, Inc.; Issuance of Mortgage Related Securities

March 17, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: American Pioneer Collateralized Mortgage Obligations, Inc., on behalf of one or more common law Delaware business trusts which it may create in the future ("Trusts").

Relevant 1940 Act Sections: Exemption requested under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order conditionally exempting the Trusts' proposed issuance of collateralized mortgage obligations, and the Applicant's proposed sale of beneficial ownership interests in such Trusts and investment in certain mortgage certificates as collateral for such obligations.

Filing Date: The Application was filed on December 11, 1986, and amended on March 11, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this Application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof ofservice by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary; SEC, 450 5th Street, NW., Washington, DC 20549. Applicant; c/o Wilmington Trust Company, Rodney Square North, Wilmington, Delaware 19890.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272–2363 or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a wholly-owned subsidiary of American Pioneer Savings Bank, a Florida-chartered savings and loan association, was organized to facilitate the formation of the Trusts, the entire beneficial interests of which are or will be initially owned by Applicant. Each Trust is or will be organized for the limited purposes of acquiring, owning, holding, and pledging mortgage certificates and other mortgage-related collateral ("Collateral"),[1] issuing and

[1] The Collateral will consist only of (i) fully modified pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (ii) guaranteed mortgage pass-through certificates issued by the

Continued

selling bonds secured by such Collateral, issuing units of beneficial interest in such TTust, and engaging in activities incidental thereto. The Applicant will not engage in any unrelated business or investment activities.

2. Each Trust will be established under a separate deposit trust agreement ("Deposit Trust Agreement") between Applicant, acting as depositor, and a bank or trust company or other fiduciary acting as owner-trustee ("Owner Trustee"). Each Trust will issue only one Series ("Series") of Bonds under the terms of an indenture between the Owner Trustee and an independent trustee ("Bond Trustee"), as supplemented by a reference trust indenture (together, the "Indenture"). The Indenture will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

3. In the case of each Series of Bonds: (a) Each Trust will hold no substantial assets other than the Mortgage Certificates; (b) the Bonds will be secured by Mortgage Certificates having an aggregate collateral value determined under the Indenture, at the time of issuance and on the day immediately following each Payment Date, at least equal to the then outstanding principal balance of the Bonds; (c) the scheduled distributions of principal and interest on the Mortgage Certificates securing the Bonds plus any other Collateral, and any interest or other earnings thereon ("Reinvestment Income"), will be sufficient to pay to Bondholders the interest and principal on the Bonds when due, absent an event of default; and (d) the Mortgage Certificates will be assigned by each Trust to the Bond Trustee and will be subject to the lien of the related Indenture.

4. Each Series of Bonds may be issued in one or more classes of which maybe comprised of Bonds upon which interest will accrue but will not be payable until the principal and interest has been paid in full on each class bearing an earlier stated maturity ("Compound Interest Bonds") and Bonds which bear a floating rate of interest ("Floating Rate Bonds"). The Floating Rate Bonds will have a maximum floating interest rate ("interest rate cap") and may have an interest rate floor. Any Series of Bonds containing one or more classes of Floating Rate Bonds will be structured with reference to the interest rate cap for that particular Series, ensuring that the cash flow scheduled to be received by the Bond Trustee from the Collateral pledged to secure the Bonds will be sufficient to make all payments of principal and interest on the Bonds, even if the interest rate on any class of Floating Rate Bonds climbed to the interest rate cap in the first interest period and remained consistent throughout the life of the Bonds.

5. In addition to the issue and sale of the Bonds by the Trusts, Applicant may sell all or part of the beneficial interests ("Participations") in each Trust to no more than 100 sophisticated institutional investors in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act"), pursuant to section 4(2) thereof. Such institutional investors may include one or more banks, savings and loan associations, insurance companies, and pension funds or other investors that would have prior experience in making investments in mortgages, mortgage related securities or real estate ("Eligible Institutions"). Each Eligible Institution purchasing a Participation from the Applicant will be required to represent that it is purchasing such Participation(s) for investment purposes. In addition, the Deposit Trust Agreement relating to each Trust will further prohibit the transfer of any certificate representing a Participation if there would be more than 100 owners of such Participations immediately following such transfer.

6. Neither the Participation holders, the Owner Trustee nor the Bond Trustee will be able to impair the security afforded to the Bondholders by the Mortgage Certificates. That is, without the consent of each Bondholder to be affected, neither the Participation holders, the Owner Trustee nor the Bond Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal amount or the rate of interest on any Bond; (c) change the priority of payment on any class of any Series of Bonds; (d) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (e) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

7. The sale of the Participations in each Trust will not alter the payment of cash flows under the related Indenture, including the amounts to be deposited in any Collateral Proceeds Account, GPM Fund, or Reserve Fund created pursuant to the Indenture to support payments of principal and interest on the Bonds.

8. No holder of a controlling interest in the Trust (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either the "Custodian" for the Mortgage Certificates or the statistical rating agency rating the Bonds. None of the Participation holders will be affiliated with the Bond Trustee.

9. The interests of the Bondholders will not be compromised or impaired by the ability of Applicant to sell beneficial interests in each Trust, and there will not be a conflict of interest between the Bondholders and the Participation holders for several reasons: (a) The Collateral that will initially be deposited into each Trust and will be pledged to secure the Bonds issued by such Trust will not be speculative in nature because it will consist solely of cash or short-term eligible investments (which will be directly deposited and maintained in a GPM Fund, Reserve Fund or Collateral Proceeds Account) and GNMA Certificates, FNMA Certificates and/or FHLMC Certificates, which Mortgage Certificates are guaranteed as described in the application by each respective United States agency; (b) the Bonds will only be issued provided an independent nationally recognized statistical rating agency has rated such Bonds in one of the two highest rating categories, which requires an extremely strong capacity of the issuing Trust to repay principal and interest on the Bonds; (c) the Indenture under which the Bonds will be issued subjects the Collateral pledged to secure the Bonds, all income and distributions thereon and all proceeds from a voluntary or involuntary conversion of any such Collateral to a first priority perfected security interest in the name of the Bond Trustee on behalf of the Bondholders; [2] and (d) the Participation

Federal National Mortgage Association ("FNMA Certificates"), (iii) mortgage participation certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates") (GNMA Certificates, FNMA Certificates and/or FHLMC Certificates are all referred to as "Mortgage Certificates"). The Collateral will primarily consist of Mortgage Certificates. The Collateral may also include an account ("Collateral Proceeds Account"), consisting principally of all distributions on Mortgage Certificates, plus reinvestment earnings thereon, less any payments to Bondholders therefrom, and any GPM Funds (which cover short falls created by graduated payment loans as described in the application) and Reserve Funds serving as additional collateral for the Bonds. All or a portion of the Mortgage Certificates securing the Bonds may be "partial pool" Mortgage Certificates.

[2] The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the issuing Trust (and any owner of beneficial interests thereof) until (i) the Bond Trustee has made the scheduled payment of principal and interest on the Bonds, (ii) the Bond Trustee has received all fees currently owed to it, (iii) any amounts necessary have been deposited into a fund for the payment of certain administrative expenses, and (iv) to the extent specified in the related Reference Trust Indenture.

Continued

holders will be entitled to receive current distributions representing the residual payments on the Collateral from the related Trust in accordance with the terms of the applicable Indenture, which distributions are analogous to dividends payable to a shareholder of a corporate issuer of collateralized mortgage obligations. Further, unless the Trust elects to be treated as a "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, the Participation holders will be liable for the expenses, taxes and other liabilities of the related Trust (other than the principal and interest on the Bonds) to the extent not previously paid from the trust estate. The choice of the form of issuer for the Bonds and the identity of the Participation holders in such issuer, however, will not alter in any respect the payments made to the Bondholders, which are payments governed by an Indenture which will meet the requirements of the Trust Indenture Act of 1939.

10. The election by any Trust to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by any such Trust. Any Trust that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Trust will be paid or provided for by one or more of the four methods which are set forth in the application. Each Trust will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods are selected by such Trust.

11. The aggregate interests of the Participation holders in the Trusts and the expected returns to be earned by the Participation holders will be far less than the aggregate interests of the Bondholders in the Collateral and the payments to be made to Bondholders. Applicant does not intend to deposit into any Trust, Mortgage Certificates with a collateral value which exceeds 120% of the initial aggregate principal amount of the related Bonds.

12. Except to the extent permitted by the limited right to substitute Mortgage Certificates, it will not be possible for the Participation holders to alter the Collateral initially deposited into a Trust, and in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of such Mortgage Certificates. Although it is possible that any substitute Mortgage Certificates may have a different prepayment experience than the original Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Certificate will be determined by market conditions beyond the control of the Participation holders, which market conditions are likely to affect all Mortgage Certificates in a similar fashion; (b) the interests of the Participation holders are not likely to be greatly different from those of the Bondholders with respect to the prepayment experience of the Mortgage Certificates; and (c) to the extent that it may be possible for the Participation holders to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is no different for the Bondholders than that of the traditional collateralized mortgage obligation structure where bonds are issued by a wholly-owned subsidiary. Further, due to the fact that there usually will be more than one Participation holder, it appears less likely that such holders will be able to agree on any desired substitution of Mortgage Certificates than if there were a single owner who could unilaterally decide on the timing and execution of the substitution.

13. The requested order is necessary and appropriate in the public interest because: (a) The Applicant and the Trusts should not be deemed to be entities to which the provisions of the 1940 Act were intended to be applied; (b) the Applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Applicant's activities are intended to serve a recognized and critical public need; (d) granting the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration provisions of the 1933 Act and thereafter by the Bond Trustee representing their interests under the Indenture; and (e) the Participations will be held entirely by Applicant or offered only to a limited number of sophisticated institutional investors through private placements.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following:

1. Each Series of Bonds will be registered under the 1933 Act.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. However, the mortgage certificates directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, and/or FHLMC Certificates.

3. If a new Mortgage Certificate is substituted, the substitute Mortgage Certificate will: (i) Be of equal or better quality than the Mortgage Certificate replaced; (ii) have similar payment terms and scheduled cash flow as the Mortgage Certificate replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificate replaced; (iv) meet the conditions set forth in paragraph (4), and the second sentence of paragraph (2), hereof; and (v) will not cause the Bonds to fail to meet the condition of the first sentence of paragraph (2) hereof. In no event may any new Mortgage Certificate be substituted for any substitute Mortgage Certificate.

4. All Mortgage Certificates and other Collateral will be held by a Bond Trustee, or on behalf of a Bond Trustee by an independent custodian ("Custodian"). The Custodian may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Bond Trustee will be provided with a first priority perfected security or lien interest in and to all Collateral.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant. No Bond will be considered a "redeemable security" within the meaning of section 2(a)(32) of the 1940 Act.

6. No less often than annually, an independent public accountant will audit the books and records of each Trust and, in addition, will determine, that the remaining scheduled payments of principal and interest on the Collateral will continue to be adequate to pay the principal and interest on the related Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee.

7. In addition, the above representations regarding the Participations, Floating Rate Bonds, and the payment of Trust expenses upon an election of REMIC status (as more fully described in the application) will be express conditions to the requested order.

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any required deposits have been made to any GPM Fund or Reserve Funds which will ultimately be used to make payments of principal and interest on the Bonds (once amounts have been released from the lien of the Indenture, the Deposit Trust Agreement for each Trust will provide that the Owner Trustee under the Deposit Trust Agreement will have a lien superior to that of the Participation holders of the Trust to the remaining cash flow).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6303 Filed 3-23-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15625; 812-6593]

Family Life Insurance Co. et al.; Application

March 17, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Family Life Insurance ccmpany ("FLIC") and Merrill Lynch Variable Annuity Account ("Account").

Relevant 1940 Act Section: Order requested under Section 26(b).

Summary of Application: Applicants seek an order approving the substitution of certain securities issued by an open-end management investment company and held by the Account. Applicants seek the substitution as a result of the diminished size of the management investment company following a prior substitution made as a result of the issuance of temporary regulations by the Internal Revenue Service ("IRS").

Filing Date: The Application was filed on January 12, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 13, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. FLIC, Account, Park Place, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Staff Attorney David S. Goldstein (202) 272-2622 or Special Counsel Lewis B. Reich (202) 272-2061 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations and Statements

1. FLIC, a stock life and disability insurance company organized under the laws of the State of Washington, is the depositor of the Account and a wholly-owned subsidiary of Merrill Lynch & Co., Inc. The Account is a separate account of FLIC registered under the 1940 Act as a unit investment trust, and was established for the purpose of funding certain variable annuity contracts issued by FLIC (the "Contracts"). The Contracts are individual deferred variable annuity contracts designed for use in connection both with retirement plans qualifying for special income tax treatment under the Internal Revenue Code of 1954, as amended (the "Code"), and plans not so qualifying. The Contracts are registered under the Securities Act of 1933.

2. Premiums under the Contracts are allocated by Contract owners among one or more sub-accounts of the Account for investment in separate investment portfolios (the "Funds") of Merrill Lynch Variable Series Funds, Inc. (the "Variable Series Funds, Inc."), a diversified, open-end management investment company registered under the Act. For each Fund, there is a sub-account of the Account for Contracts under tax qualified plans ("qualified Contracts") and one for Contracts under nonqualified plans ("nonqualified Contracts"). The Funds in which premiums currently may be invested include the Merrill Lynch Reserve Assets Fund (the "Reserve Assets Fund"), the Merrill Lynch U.S. Government Money Fund (the "U.S. Government Money Fund") and five additional Funds. The investment objectives of the Reserve Assets Fund are to preserve shareholder capital, to maintain liquidity and to achieve the highest possible current income by investing in short-term money market securities, including but not limited to short-term U.S. Government Agency Securities. These objectives are the same as those of U.S. Government Money Fund except that the latter's investments are limited to U.S. Government or U.S. Government Agency securities.

3. No sales load deductions are made from premiums under the Contracts and Contract owners may transfer all or part of their Contract values from one sub-account to another without charge, subject to certain restrictions on the timing and frequency of transfers. With certain exceptions, withdrawals or partial withdrawals of Contract values are subject to a contingent deferred sales charge. FLIC has reserved the right under the Contracts to substitute, without consent of Contract owners, shares of another investment portfolio for shares of any Fund held by the Account.

4. The Contracts are designed to be taxed as annuities under section 72 of the Code so that, for federal income tax purposes, any income, gain or loss realized with respect to the assets held in the Account will be includible in the computation of the income of FLIC and not in the income of Contract owners or of any annuitant or beneficiary under a Contract.

5. On September 15, 1986, the IRS published temporary regulations prescribing diversification standards to be met by segregated asset accounts funding variable contracts as a condition to the taxation of such contracts as annuities under section 72 of the code. Treasury Regulation § 1.817-5T, 51 FR 32633 (1986). The temporary regulations deny annuity tax treatment for any nonqualified variable annuity contract investing in a portfolio holding more than fifty-five percent (55%) of its assets in securities of the same issuer and provide that all "government securities" are to be treated as securities of a single issuer.

6. The U.S. Government Money Fund will not meet the diversification standards established by the temporary regulations and, consequently, any nonqualified Contract with Contract values allocated to that Fund will forfeit its eligibility for annuity tax treatment under section 72 of the Code. As a result of the issuance of the temporary regulations, FLIC has determined that investment in the U.S. Government Money Fund was no longer appropriate to the purposes of the nonqualified Contracts and on December 12, 1986, it substituted shares of the Reserve Asset Fund for all shares of the U.S. Government Money Fund held by the Account for nonqualified Contracts. Sudh substitution was made pursuant to a Commission order issued under section 26(b) of the Act.

7. At December 31, 1986, the net asset value of the U.S. Government Money Fund was less than $475,000. Applicants have been advised by management of the Variable Series Funds, Inc. that as a result of the reduction in net assets of the U.S. Government Money Fund, the ability of the Fund to realize economies of scale in engaging in portfolio transactions is likely to be reduced and

the expense ratio of the Fund is likely to increase, resulting in a concurrent reduction in yield. FLIC has therefore determined that continued investment of qualified Contracts in the U.S. Government Money Fund is no longer appropriate to the purposes of the Contracts and that a substitution of shares of the Reserve Assets Fund for all Shares of the U.S. Government Money Fund held by the Account for qualified Contracts would be in the best interests of such Contract owners.

8. Section 26(b) was intended to provide for Commission scrutiny of proposed substitutions which could, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the proceeds of redemptions, or both.

9. The proposed substitution of shares of the Reserve Assets Fund for shares of the U.S. Government Money Fund is in the best interests of Contract owners, and is consistent with the investment expectations of Contract owners. The substitutions will not result in the type of costly forced redemption which section 26(b) was intended to guard against because: (1) No sales load deductions are made from premiums under the Contracts; (2) substitutions will be effected at net asset value without the imposition of any transfer or other charges; and (3) contract owners are exempted from the Contracts' transfer frequency limitations in order to transfer Contract values from the U.S. Government Money Fund to another eligible Fund prior to the substitution or from the Reserve Assets Fund to another eligible Fund within 30 days of receiving notice of the substitution.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6304 Filed 3-23-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 18, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

King World Productions, Inc.
Common Stock, $0.01 Par Value (File No. 7-9786).

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 8, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6302 Filed 3-23-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

March 18, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Baldor Electric Company
Common Stock, Par Value $0.10 (File No. 7-9787)
Benequity Holding LP
Common Stock, No Par Value (File No. 7-9788)
Crompton & Knowles Corp
Common Stock, $5.00 Par Value (File No. 7-9789)
General Homes Corp.
Common Stock, $0.01 Par Value (File No. 7-9790)
Houghton Mifflin Co.
Common Stock, $1.00 Par Value (File No. 7-9791)
Kennametal Inc.
Common Stock, $1.25 Par Value (File No. 7-9792)
Kellwood Co.
Common Stock, No Par Value (File No. 7-9793)
Laclede Gas Co.
Common Stock, $2.00 Par Value (File No. 7-9794)
McLean Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-9795)
Premark International Inc.
Common Stock, $1.00 Par Value (File No. 7-9796)
Slattery Group, Inc.
Common Stock, $1.00 Par Value (File No. 7-9797)
Southern Union Co.
Common Stock, $100 Par Value (File No. 7-9798)
Fruit of the Loom Inc.
Class "A" Common Stock, $.0.01 Par Value (File No. 7-9799)

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 April 8, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6380 Filed 3-23-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before April 23, 1987. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83s), supporting statements, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653–6623

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340.

Title: Small Business Institute Counseling Case Report
Frequency: One per client
Description of Respondents: Small Business Institute schools submit case reports. Reports are submitted to SBA as evidence that the contract has been fulfilled and serves the university as a source of student evaluation
Annual Responses: 7200
Annual Burden Hours: 18000
Type of Request: Extension

Title: Profit Consponored Training Program
Frequency: On occasion
Description of Respondents: The SBA co-sponsor training programs with for-profit organizations. The purpose of the questionnaire is to ascertain client reaction to these programs
Annual Responses: 30000
Annual Burden Hours: 5000
Type of Request: New

Elizabeth M. Zaic,

Deputy Director, Office of Administrative Services, Small Business Administration.

March 19, 1987.

[FR Doc. 87–6337 Filed 3–23–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending March 13, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44733 R–1—R–7

Parties: Members of International Air Transport Association.
Date Filed: March 13, 1987.
Subject: 9th Cargo Services Conference Resolutions.
Proposed Effective Date: April 1, 1987 & October 1, 1987.

Docket No. 44734

Parties: Members of International Air Transport Association.
Date Filed: March 13, 1987.
Subject: Adjust fares between Belize City and Europe.
Proposed Effective Date: April 1, 1987.

Docket No. 44735

Parties: Members of International Air Transport Association.
Date Filed: March 13, 1987.
Subject: Intra-Europe Creative Fares.
Proposed Effective Date: April 1, 1987.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–6258 Filed 3–23–87; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ending March 13, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44719

Parties: USAir Group, Inc. and Piedmont, Inc.
Date Filed: March 9, 1987.
Subject: Joint Application of USAir Group, Inc. and Piedmont Aviation, Inc. requests that the Department of Transportation approve, pursuant to section 408 of the Act, the acquisition by USAir Group, Inc. of control of Piedmont Aviation, Inc.
Parties: Trans World Airlines, Inc. and USAir Group, Inc.
Date Filed: March 9, 1987.
Subject: Application of Trans World Airlines, Inc. requests approval under section 408 of the Act to acquire control of USAir Group, Inc. USAir Group owns all of the voting stock of USAir, Inc. and recently received DOT approval of its application to acquire control of Pacific Southwest Airlines, Inc. TWA also seeks approval to merge USAir and TWA.

Docket No. 43412

Parties: Saudi Arabian Airlines Corporation and The Flying Tiger Liner Inc.
Date Filed: March 11, 1987.
Subject: Joint Request of Saudi Arabian Airlines Corporation and The Flying Tiger Line Inc. pursuant to section 412 of the Act, respectfully request a six month extension of the approval of their Cargo Operating Agreement and the limited antitrust immunity originally conferred by Order 85–10–3.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–6259 Filed 3–23–87; 8:45 am]

BILLING CODE 4910–62–M

Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed; Week Ending March 13, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expeditied procedures. Such procedures may consist of the adopting of as how-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No., 44724

Dated Filed: March 9, 1987.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 6, 1986.
Description: Application of Ketchikan Air Service, Inc., pursuant to section 401(d)(1) of the Act and Subpart Q of the Regulations, requests authority to engage in interstate and overseas schedule air transportation of persons, property and mail; Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States or the District of Columbia, or any territory or possession of the United States

Docket No. 44729

Date Filed: March 11, 1987.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 8, 1987.
Discription: Application of Northwest Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests an amendment to its certificate of public convenience and necessity for Route 3–F to permit Northwest to provide air transportation services between the United States and Jamaica via the Grand Cayman.

Docket No. 42477

Date Filed: March 11, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 8, 1987.

Description: Amendment #3 to the Application of Air Atonabee Limited d/b/a City Express, requests authority under section 402 of the Act to operate scheduled air services between Toronto and Newark.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-6260 Filed 3-23-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-87-4]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: April 13, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on March 17, 1987.

Donald P. Byrne,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
25173	Airlift International, Inc	14 CFR 121.371(a) and 121.378	To allow petitioner to use certain engines, components, and appliances on the Fokker F-27/FH-227 aircraft that have been manufactured, repaired, tested, overhauled, or inspected by persons outside of the United States who do not hold U.S. airman certificates.
25159	Bemidji Airlines	14 CFR 135.265	To allow petitioner to schedule its operations with less than the 9 consecutive hours of rest required for flightcrews.
25151	Challenge Air Transport, Inc	14 CFR 121.153(c)(2)	To allow petitioner to operate one leased Short Brothers and Harland Limited, Short SC-5 Belfast aircraft for 2 years even though the aircraft does not have a U.S. type design certificate.
25190	Hong Kong Aircraft Engineering Company	14 CFR 145.71 and 145.73	To allow petitioner to perform maintenance and alterations to U.S.-registered products and spare parts from wherever they are operated.
22641	ERA Helicopters, Inc	14 CFR 121.391(a)(1)	To allow petitioner to conduct medical evacuation flights using a Convair 580 aircraft configured with more than nine passenger seats without providing a flight attendant as required.
25134	Basler Flight Service, Inc	14 CFR 121.343, 121.359, and 121.360	To allow petitioner to operate turbine-engine-powered DC-3 cargo airplanes owned or operated by petitioner without the equipment required.
24413	Flight Training International	14 CFR 61.63(d) (2) and (3) and 61.157(d)(1)	To allow trainees of petitioner, who are applicants for an airline transport pilot certificate or a type rating to be added to any grade of pilot certificate to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d) (2) and (3) and to complete a portion of that practical test in a simulator as authorized by § 61.157(d).
24146	E. W. Wiggins Airways, Inc	14 CFR 23.1301(d) and 135.143(b)	To allow petitioner to operate its Cessna 208 single-engine aircraft with inoperative instruments and equipment only when such instruments and equipment are not required in the equipment list found in the Cessna 208 Aircraft Information Manual or required by certain types of flight conditions as specified in the FAA-approved limitations section of the Cessna 208 Information Manual.
25125	Executive Air Fleet Corporation	14 CFR 91.191(a)(4), 135.165(a)(5), and 135.165(b)(5).	To allow petitioner to conduct extended overwater operations, restricted to the Western Atlantic Ocean, the Caribbean, and the Gulf of Mexico, using a single long-range navigation system and a single high-frequency radio transceiver.
24568	Flying Tiger Line, Inc	14 CFR 121.371(a) and 121.378	To allow petitioner to utilize Japan Air Lines Co. Ltd. for the overhaul and repair of its JT9D-70A and JT9DQ engines, subject to certain conditions and limitations.

Disopositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of Relief Sought—Disposition
22558	Boeing Commercial Airplane Company	14 CFR 47.69(b)	To allow petitioner to use Dealer's Aircraft Registration Certificates outside the United States for flight testing and sales demonstrations.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of Relief Sought—Disposition
23290	Air Transport Association of America	14 CFR 121.311(f) and 121.391(d)	To allow Air Transport Association of America member airlines' and other similarly-situated Part 121 certificate holders' required flight attendants in the Boeing 767 airplane to occupy a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785 of the FAR and is located near the overwing exits rather than being located near required floor-level emergency exits. *Granted, February 27, 1987.*
24705	Kevin John Kennedy	14 CFR 63.35(d), 63.39(a), and 63.42(d)	To remove the restriction on petitioner's U.S. Flight Engineer Airman Certificate that prohibits its use for compensation or hire, to allow petitioner to be issued a U.S. certificate without passing a practical test on the duties of a flight engineer, and as an alternative, to extend for an indefinite time period the expiration date of the FAA Flight Engineer Written Examination, which the petitioner has successfully completed. *Denied, February 25, 1987.*
24939	Experimental Aircarft Association	14 CFR 91.30(a)	To allow operation of petitioner's specified aircraft with inoperative instruments and equipment without an approved minimum equipment list. *Granted, February 25, 1987.*
24920	Federal Exams Aviation Ground School	14 CFR 65.75(b)	To allow an applicant for a mechanic certificate to take the oral and practical test prior to passing the written examination. *Denied, February 27, 1987.*
25073	Atlantis Airlines, Inc	14 CFR 135.225(e)(1)	To allow petitioner's pilots to operate its BAE 3101 and SA 226TC aircraft from Myrtle Beach Air Force Base, S.C., using takeoff visibility minimums which are less than 1 mile and are equal to or greater than the landing visibility minimums established for Myrtle Beach Air Force Base. *Granted, March 3, 1987.*
20894	Trans-Colorado Airlines, Inc	14 CFR 135.181(a)(2)	To allow petitioner to operate its Swearingen SA 226TC and SA 227AC aircraft under instrument fight rules or visual flight rules over-the-top over the V95 route between Baloo Intersection and Trees Intersection and over the V95/V421 route between Powes Intersection and Zeans Intersection using manufacturer's approved performance data. *Granted, March 3, 1987.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought—Disposition
24165	Department of the Air Force	14 CFR 91.73(a)	To allow the petitioner to conduct certain night flight military training operations without lighted aircraft position lights.
030CE	Mooney Aircraft Corp	14 CFR 23.991(a)(1)	To allow installation of the Porsche PFM3200No3 engine in the M20L airplane, with two identical electric-driven fuel pumps for the fuel injection system rather than a fuel pump directly driven by the engine.

[FR Doc. 87-6241 Filed 3-23-87; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 18, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0175
Form Number: IRS Form 4626-W
Type of Review: Resubmission
Title: Alternative Minimum Tax Worksheet-Corporations
Description: Form 4626-W is a worksheet used in calculating the alternative minimum tax.
Respondents: Businesses
Estimated Burden: 10,792
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Office.

[FR Doc. 87-6313 Filed 3-23-87; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 18, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0964
Form Number: None
Type of Review: Extension
Title: Windfall Profit Tax; Rules Relating to Production From a Unitized Property of Imputed Stripper Well Crude Oil, Imputed Heavy Crude Oil, and Imputed Newly Discovered Crude Oil
Description: These regulations relate to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for windfall profit tax purposes. The regulations require taxpayers to keep in their records a statement that supports their preferred tax treatment of certain crude oil.
Respondents: Individuals, Businesses
Estimated Burden: 2 hours

OMB Number: 1545-0685
Form Number: IRS Form 1363
Type of Review: Extension
Title: Export Exemption Certificate
Description: This form is used by air carriers of property to justify the tax-free transport of property. It is used

by IRS as proof of the tax exempt status of each shipment.

Respondents: Individuals, Businesses

Estimated Burden: 50,908 hours

QMB Number: New

Form Number: None

Type of Review: New

Title: Supplemental Qualification Statement for Internal Revenue Agent, GS–512–5/7/9/11

Description: This form is designed to elicit specific information from revenue agent applicants reducing the rating time of 25 minutes to 3 minutes. This form will be used on a nationwide basis and will be collected only from those we are actively considering for employment.

Respondents: Individuals

Estimated Burden: 11,000 hours

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Office.

[FR Doc. 87–6314 Filed 3–23–87; 8:45 am]

BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92–463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC on April 29, 1987 at 8:30 a.m.

The committee will (1) review and make appropriate recommendations relative to the Veterans Administration's programs to assist Vietnam veterans who were exposed to herbicides; such recommendations may concern the information delivery system and outreach efforts, scheduling of Agent Orange-related examinations, essential follow-up activities, and other related matters; (2) advise the Administrator on VA Agent Orange-related programs, programs of the Federal Government, and State programs which are designed to assist veterans exposed to herbicides, and simultaneously, will minimize duplication of VA and other Federal programs concerned with the Agent Orange issue; (3) receive and review information from veterans service organizations regarding services provided by the Veterans Administration to Vietnam veterans concerned about the possible adverse health effects of exposure to herbicides; (4) review and comment on proposals for research on the possible health effects of exposure to herbicides; and (5) serve as a forum for individual veterans to inform the Veterans' Administration of their views on policy issues and on the operation of Agency programs designed to assist veterans exposed to herbicides and dioxins in Vietnam.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may direct questions, in writing, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Projects Office (10x21), Department of Medicine and Surgery, Veterans Administration Central Office, Washington, DC 20420. (Telephone: (202) 653–5043).

Dated: March 13, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–6340 Filed 3–23–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COUNCIL ON ENVIRONMENTAL QUALITY

DATE, TIME AND PLACE: Tuesday, April 7, 1987, 10:00 a.m., Council on Environmental Quality Conference Room, First Floor, 722 Jackson Place, NW., Washington, DC.

DATE: March 20, 1987.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. A representative of the National Science Foundation will brief the Council on Environmental Quality on the state of the science relating to climate change due to the greenhouse effect, and stratospheric ozone depletion. Questions and discussion will be limited to the NSF representative, the Council and the General Counsel.

2. Other business.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503, (202) 395–5754.

A. Alan Hill,

Chairman.

[FR Doc. 87–6413 Filed 3–20–87; 11:17 am]

BILLING CODE 3125–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 19, 1987.

TIME AND DATE: 10:00 a.m., Thursday, March 26, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Canon Coal Company, Docket No. PENN 85–201. As stated in the Commission's Direction for Review, the issues include whether the judge applied an erroneous analysis to determine the existence of a violation of 30 CFR 75.200, the mandatory roof control standard.

Any person intending to attend this meeting who requires special accessibility features, such as sign language interpreters, must inform the Commission in advance. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–6404 Filed 3–20–87; 11:17 am]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, March 27, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–6410 Filed 3–20–87; 11:17 am]

BILLING CODE 6210–01–M

[USITC SE–87–10]

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, March 23, 1987 at 2:30 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731–TA–374 (Preliminary) (Potassium Chloride from Canada)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

March 13, 1987.

[FR Doc. 87–6454 Filed 3–20–87; 3:14 pm]

BILLING CODE 7020–02–M

[USITC SE–87–11]

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, March 25, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Inv. 731–TA–375 (P) (Certain line pipes and tubes from Canada)—briefing and vote.
2. Inv. 701–TA–281 (F) (Stainless steel pipes and tubes from Sweden)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

March 13, 1987.

[FR Doc. 87–6455 Filed 3–20–87; 3:14 pm]

BILLING CODE 7020–02–M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Thursday, April 9, 1987.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of March, 1987.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Telephone: (202) 523–5920.

DATE OF NOTICE: March 20, 1987.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 87-6438 Filed 3-20-87; 2:43 pm]

BILLING CODE 7550-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Tuesday, March 31, 1987.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Southern Air Transport, LOGAIR 15, Kelly Air Force Base, Texas, October 4, 1986.
2. *Marine Accident Report:* Collision of the British Bulk Carrier M/V PALM PRIDE with the Sioux City & New Orleans Barge Fleet in the Mississippi River near Luling-Destrehan Bridge, June 23, 1986.

FOR MORE INFORMATION CONTACT: Ray Smith, (202) 382-6525.

Ray Smith,

Federal Register Liaison Officer.

March 20, 1987.

[FR Doc. 87-6450 Filed 3-20-87; 3:13 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 23, 30, April 6, and 13, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of March 23

Thursday, March 26

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Stock Ownership by NRC Employees

Week of March 30 (Tentative)

Thursday April 2

2:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of April 6 (Tentative)

Monday, April 6

2:00 p.m.
Briefing on NRC Strategic Planning (Public Meeting)

Thursday, April 9

2:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (closed—Ex. 2 & 6) (*Postponed* from March 20)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, April 10

10:00 a.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

Week of April 13 (Tentative)

Wednesday, April 15

10:00 a.m.
Briefing by Office of Special Projects (Public Meeting)
2:00 p.m.
Briefing by DOE on the TMI-2 Core Examination Program (Public Meeting)

Thursday, April 16

11:00 a.m.
Periodic Meeting with the Advisory Panel for the Decontamination of TMI-2 (Public Meeting)
2:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2, 5, 6, & 7)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Briefing on Foreign Trip (Closed—Ex. 1) was held on March 19. Affirmation of "Codification of Procedures for Resolving Conflicts Concerning Disclosure or Nondisclosure of Information" (Public Meeting) scheduled for March 19 was *postponed.*

Affirmation of "Commission Review of ASLBP-815-511-01-ML (In the Matter of Babcock & Wilcox, Parks Township Volume Reduction Services Facility)" (Public Meeting) was held on March 19.

To verify the status of meetings call (recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker, (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

March 19, 1987.

[FR Doc. 87-6477 Filed 3-20-87; 3:40 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 52, No. 56
Tuesday, March 24, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

University of Texas at Austin, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 87-5346 appearing on page 7644 in the issue of Thursday, March 12, 1987, make the following correction:

In the second column, in the sixth line from the bottom, the Docket No. should read "85-064".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Temp. Reg. A-23, Supp. 3]

Use of Carrier Contractors for Express Small Package Transportation

Correction

In the rule document beginning in the third column on page 5536 in the issue of Wednesday, February 25, 1987, make the following corrections:

1. On page 5538, in the second column, in the last paragraph, in the seventh and eighth lines from the bottom, remove the duplicate sentence "Agencies shall instruct their cost-reimbursable contractors."

2. On page 5542, in the first column, under **Attachment B**, under "Southwestern Zone", in the line for Telephone, "FMS" should read "FTS".

3. On the same page, in the second column, in the file line at the end of the document, the FR Doc. number should read "87-3809".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0102]

Cumulative List of Orphan Drug and Biological Designations

Correction

In notice document 87-2348 beginning on page 3778 in the issue of Thursday, February 5, 1987, make the following corrections:

1. On page 3778, in the table, in the first column, in the second line from the bottom, "recognizing" was misspelled.

2. On the same page, in the table, in the second column, in the 10th line, "melanma" should read "melanoma".

3. On page 3779, in the second table, in the first column, in the 20th line, "Trade-Cypoterone/" should read "Trade-Cyproterone/".

4. On the same page, in the same table, in the second column, in the 21st line, after "nodosum" insert "leprosum".

5. On the same page, in the same table, in the third column, in the 25th line from the bottom, "Pharmquest" should read "Pharmaquest".

6. On page 3780, in the table, in the third column, in the 25th line, "11716" should read "11726".

7. On page 3781, in the table, in the first column, in the seventh line from the bottom, "I-metaiodobenzylquanidine" should read "I-metaiodobenzylguanidine".

8. On the same page, in the same table, in the first column, in the sixth line from the bottom, "I-6b-iodomethly" should read "I-6B-iodomethyl".

9. On the same page, in the same table, in the first column, in the second line from the bottom, "dimercaptosuc-cinic" should read "dimercaptosuc cinic".

10. On the same page, in the same table, in the second column, in the second line from the bottom, "syndrome" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

Correction

In proposed rule document 87-5302 beginning on page 7620 in the issue of Thursday, March 12, 1987, make the following corrections:

1. On page 7620, in the third column, in the **SUMMARY**, in the sixth line, "2.38" should read "2.36".

2. On page 7621, in the third column, in the section heading above amendatory instruction 2, "§ 2.207" should read "§ 2.20".

BILLING CODE 1505-01-D

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Election Procedures; New Rule

Correction

In proposed rule document 87-5198 beginning on page 7450 in the issue of Wednesday, March 11, 1987, make the following corrections:

1. On page 7451, in the first column, in the third paragraph, in the 11th line, "remain" should read "remind"; in the 12th line, "then" should read "them"; and in the 18th line, after "shall" insert "be".

§ 103.20 [Corrected]

2. On the same page, in the second column, in § 103.20(a), in the second line, "is" should read "in"; and in the third line, "conspicuous" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 107, 109, 170, and 174

[CGD 83-071]

Mobile Offshore Drilling Unit Operating Manual Requirements

Correction

In rule document 87-4724 beginning on page 6974 in the issue of Friday, March 6, 1987, make the following corrections:

1. On page 6974, in the first column under **SUPPLEMENTARY INFORMATION**, in the fifth line, "1987" should read "1978".

§ 109.121 [Corrected]

2. On page 6979, in the first column, in § 109.121(c)(2), in the 10th line, "use" should read "used".

3. On the same page, in the second column, in § 109.121(c)(13), in the sixth line, "value" should read "valve".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-39]

Establishment of Airport Radar Service Areas

Correction

In rule document 87-5112 beginning on page 7390 in the issue of Tuesday, March 10, 1987, make the following correction:

§ 71.501 [Corrected]

On page 7395, in the second column, in the second line from the bottom, "233°" should read "223°".

BILLING CODE 1505-01-D

federal register

Tuesday
March 24, 1987

Part II

Department of Commerce

Patent and Trademark Office

37 CFR Part 1
Extension of Patent Term; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 60594-7007]

Rules for Extension of Patent Term

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending the rules of practice in patent cases, Part 1 of Title 37, Code of Federal Regulations, to provide the rules and procedures under which extensions in the terms of patents may be sought pursuant to the provisions of 35 U.S.C. 156 which was enacted on September 24, 1984 in Title II of Pub. L. 98-417, the "Drug Price Competition and Patent Term Restoration Act of 1984." The new 35 U.S.C. 156 provides that, upon application to the Commissioner of Patents and Trademarks, the term of a particular patent, which claims a product or a method of using or manufacturing a product as defined in the Public Law, may be extended under certain circumstances and conditions where the product has been subject to a regulatory review as defined in Pub. L. 98-417 and by the Secretary of Health and Human Services, before its commercial marketing or use. The rule changes amending Part 1 of Title 37 would provide specific procedures for the submission of such applications to the Patent and Trademark Office and for the determination and issuance of certificates of patent term extension (PTE) by the Patent and Trademark Office on the applications submitted.

EFFECTIVE DATE: May 26, 1987.

FOR FURTHER INFORMATION CONTACT: Charles E. Van Horn by telephone at (703) 557-3637 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on July 30, 1986, at 51 FR 27205-27215 and in the Official Gazette on August 19, 1986, at 1069 O.G. 25-34. An oral hearing was held on September 15, 1986. Sixteen written letters and statements were submitted. Two (2) persons testified at the oral hearing which resulted in ten (10) pages of testimony.

Objectives of the Rule Change

The rule change makes some clarifications and additions to the initial operating guidelines which were published as "Guidelines for Extension of Patent Term under 35 U.S.C. 156" in the Official Gazette of the PTO on October 9, 1984. Several of the changes are designed to adopt and implement suggestions from members of the public.

Discussion of Specific Rules

Section 1.1 is amended to indicate that applications for extension of patent terms and any communications relating thereto intended for the Patent and Trademark Office should be directed to "Box Patent Ext."

The filing of an application for an extension of the term of a patent would be considered timely if received in the Patent and Trademark Office on or before the statutory deadline, or if the application is deposited with the U.S. Postal Service in accordance with the provisions of § 1.8 or § 1.10 of this part before the statutory deadline. The filing of an application for an extension of the term of a patent would be treated in the same manner as the filing of any paper required to be filed in the Patent and Trademark Office within a set period of time and not subject to the exceptions enumerated in 37 CFR 1.8(a).

Section 1.20 is amended to add paragraph (n) to establish a fee of $550.00 for filing an application for extension of the term of a patent pursuant to § 1.740. This amount is set to cover the costs to the Patent and Trademark Office of receiving and acting upon applications for extension of patent term as provided in 35 U.S.C. 156(h) based upon PTO experience in processing applications for patent term extension during the first two years of implementation.

Comment: The reduction in the fee for filing an application for patent term extension from $750.00 to $550.00 has raised the question of how to obtain refunds for those applications filed under the initial operating guidelines.

Reply: When the final rules are approved, refunds will be made to those who paid the higher fee without any request being filed. Although the final rules do not take effect until 60 days from publication in the **Federal Register**, the fee of $550.00 should be paid with any application filed after the date of this publication of the final rules.

Comment: It has been suggested that a lower fee be set for the filing of a patent term extension application which would be applicable to small entities.

Reply: This suggestion has not been adopted since there is no statutory provision for such a fee structure.

A new "Subpart F—Extension of Patent Term" is added to Part 1 to include §§ 1.710 through 1.785.

Section 1.710 defines the patents subject to extension of the patent term. Paragraph (a) of § 1.710 defines the patents subject to extension in terms of the subject matter being claimed therein. Under paragraph (a) of § 1.710 a patent to (1) a product, (2) a method of using a product, (3) or a method of manufacturing a product can be extended as long as the product meets the definition contained in paragraph (b) of § 1.710, and as long as the other conditions and requirements for extension of patent term are met. Paragraph (b) of § 1.710 follows the language of 35 U.S.C. 156 and defines a "product" as meaning (1) a human drug product or (2) any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act. The term "human drug product" as defined in paragraph (b) of § 1.710 means the active ingredient of a new drug, antibiotic drug, or human biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act) including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient.

Comment: It has been proposed that § 1.710 be modified to specifically acknowledge that patents claiming pharmaceutical compositions or formulations of the "product" are eligible for extension or alternatively to modify the term "product" to include such compositions or formulations.

Reply: "Product" is specifically defined in 35 U.S.C. 156(f) as follows. For a human drug product, the term means "the active ingredient of a new drug, antibiotic drug or human biological product (as those terms are used in the Federal Food, Drug and Cosmetic Act and the Public Health Service Act) including any salt or ester of the active ingredient, as a single entity, or in combination with another active ingredient." A patent is considered to claim the product where it claims the active ingredient per se, or claims a composition or formulation which contains the active ingredient(s) and reads on the composition or formulation approved for commercial marketing or use.

Comment: It has been suggested that the language of § 1.710(b) be modified to read "[1] a human drug product (i.e., the active ingredient of a new drug, antibiotic drug or human biological product, as those terms are used in the Federal Food, Drug, and Cosmetic Act and/or the Public Health Service Act)", with a similar modification at the bottom of the paragraph.

Reply: Since the language used in this section of the rule tracks the statutory language on which it is based and to avoid possible confusion or unnecessary ambiguity, the proposed modification has not been adopted.

Comment: It has been suggested that the definition of the term "product" be broadened to specifically refer to product-by-process claimed products.

Reply: The term "product" as defined in the statute and rules is considered to encompass any means of defining a product. Product-by-process claims are only an alternative form available to claim a product. Neither the proposed rules nor statute limit the manner of claiming a product.

Section 1.720 defines the conditions under which the term of a patent may be extended. The conditions for extension are:

(1) The patent must claim a product or a method of using or manufacturing a product as defined in § 1.710;

(2) The term of the patent must never have been previously extended except for any interim extension issued pursuant to § 1.760;

(3) An application for extension must be submitted in compliance with § 1.740;

(4) The product must have been subject to a regulatory review period as defined in 35 U.S.C. 156(g) before its commercial marketing or use;

(5) The product must have received permission for commercial marketing or use and (i) the permission for the commercial marketing or use of the product must be the first received permission for commercial marketing or use under the provision of law under which the applicable regulatory review occurred, or (ii) in the case of a patent claiming a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commercial marketing or use must be the first received permission for the commercial marketing or use of a product manufactured under the process claimed in the patent;

(6) The application must be submitted within the sixty day period beginning on the date the product first received permission for commercial marketing or use under the provisions of law under which the applicable regulatory review period occurred, or in the case of a patent claiming a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the application for extension must be submitted within the sixty day period beginning on the date of the first permitted commercial marketing or use of the product manufactured under the process claimed in the patent;

(7) The term of the patent must not have expired before the submission of an application in compliance with § 1.741; and

(8) No other patent term must have been extended for the same regulatory review period for the product.

Comment: It has been suggested that § 1.720(e) be modified to avoid combining the two statutory requirements that (1) the product is an approved product, that is, it has received permission for commercial marketing or use and (2) that the application be submitted within the sixty day period beginning on the date the product first received permission for commercial marketing or use.

Reply: The section has been modified to be more consistent with the underlying statutory language. In addition, subsection (e)(i) has been changed to (f), the term (ii) has been cancelled and subsections (f) and (g) have been relettered as (g) and (h) respectively. Thus, each statutory requirement is separately provided for as suggested.

Comment: The rule appears to distinguish between the date when commercial marketing or use is "first *permitted*" for products made by DNA method inventions, versus the date a product first "*received* permission" for commercial marketing or use. Since this distinction is not required by the statute which uses the language "first permitted commercial marketing or use" in each case, is there some other policy reason for the apparent distinction?

Reply: No distinction was intended, simply a different combination of words used to describe the same date—i.e. the date of "first permitted commercial marketing or use."

Comment: It has been suggested that patent term extension should not be available for a patent in which a terminal disclaimer has been filed and particularly where such a terminal disclaimer was necessary to avoid double patenting.

Reply: The suggestion has not been adopted since there is no statutory basis for denying an application for patent term extension where the term of the patent sought to be extended is affected by a terminal disclaimer.

Section 1.730 requires that an application for extension of a patent be submitted by the owner of record of the patent or its agent and that the application must comply with the requirements of § 1.740. The application papers submitted would be required to clearly reflect and establish the authority of the person submitting the application to do so on behalf of the owner. See § 1.740(b). For example, if the person submitting the application is the owner of record, the application papers would be required to so reflect. If the person submitting the application is doing so as the agent of the owner of record, the application papers must so reflect and establish the authority of the agent to act on behalf of the owner, e.g., as an officer of a corporate owner.

Comment: It has been suggested that § 1.730 be deleted as being redundant with §§ 1.720(c) and 1.740(b).

Reply: This suggestion has not been adopted. Section 1.730 repeats the statutory requirement as to those eligible to file the application for patent term extension. Sections 1.720(c) and 1.740(b) reflect the Commissioner's rule making authority as to what is necessary to demonstrate that the statutory requirement has been met by defining (1) who must sign the oath or declaration which accompanies an application for patent term extension and (2) the contents of the oath and declaration. Thus the sections are not redundant.

Section 1.740 establishes the contents and requirements of an application for extension of patent term. Paragraph (a) of § 1.740 requires that the application be made in writing to the Commissioner of Patents and Trademarks. The certified duplicate of the application papers will serve as the copy to be submitted by the Commissioner to the Secretary of Health and Human Services in order that the Secretary may determine the applicable regulatory review period as required by Pub. L. 98–417.

Paragraph (a) of § 1.740 further specifies the contents of a formal application for extension of patent. If the application does not meet all formal requirements when submitted, the applicant will be notified of the informalities and may seek to have that holding reviewed under § 1.740(c). In accordance with paragraph (a) of § 1.740, a formal application for the extension of the term of a patent shall include:

(1) A complete identification of the approved product as by appropriate chemical and generic name, physical structure or characteristics that would permit the Commissioner to make a determination of whether the patent claims the approved product, or a method of making or using the approved product;

(2) A complete identification of the Federal statute including the applicable provision of law under which the regulatory review occurred;

(3) An identification of the date on which the product received permission for commercial marketing or use under the provision of law under which the applicable regulatory review period occurred;

(4) In the case of a human drug product, an identification of each active ingredient in the product and as to the product and each active ingredient, a statement that they have not been previously approved for commercial marketing or use under the Federal Food Drug and Cosmetic Act, or a statement of when the active ingredient was approved for commercial marketing or use (either alone or in combination with other active ingredients) and the provision of law under which it was approved.

(5) A statement that the application is being submitted within the sixty day period permitted for submission pursuant to proposed § 1.720(f) and an identification of the date of the last day on which the application could be submitted;

(6) A complete identification of the patent for which an extension is being sought by the name of the inventor, the patent number, the date of issue, and the date of expiration;

(7) A copy of the patent for which an extension is being sought, including the entire specification (including claims) and drawings;

(8) A copy of any disclaimer, certificate of correction, receipt or statement of maintenance fee payment, or reexamination certificate issued in the patent;

(9) A statement beginning on a new page that the patent claims the approved product or a method of using or manufacturing the approved product, and a showing which lists each applicable patent claim and demonstrates the manner in which each applicable patent claim reads on the approved product or a method of using or manufacturing the approved product;

(10) A statement beginning on a new page of the relevant dates and information pursuant to 35 U.S.C. 156(g) in order to enable the Secretary of Health and Human Services to determine the applicable regulatory review period.

(i) For a human drug product, this information will include the effective date of the investigational new drug (IND) application and the IND number; the date on which a new drug application (NDA) was initially submitted and the NDA number; and the date on which the NDA was approved;

(ii) For a food or color additive, this information will include the date a major health or environmental effects test on the additive was initiated and any available substantiation of that date; the date on which a petition for product approval under the Federal Food, Drug and Cosmetic Act was initially submitted and the petition number; and the date on which the application was approved;

(iii) For a medical device, this information will include the effective date of the investigational device exemption (IDE) and the IDE number, if applicable, or the date on which the applicant began the first clinical investigation involving the device if no IDE was submitted and any available substantiation of that date; the date on which an application for product approval under section 515 of the Federal Food, Drug and Cosmetic Act was initially submitted and the number of the application; and the date on which the application was approved.

In the cases where there is no regulatory event to reflect the commencement of the testing or approval phase of the regulatory review period, applicants should include in the application the dates that they claim initiate either the approval or the testing phases and an explanation of their reasonable basis for why they conclude that these dates are the relevant dates. For instance, when the clinical trials are conducted outside the United States, the testing phase for a medical device begins on the date the clinical investigation involving the device was begun. An applicant should include an explanation as to why the date claimed is the date on which such clinical investigations had commenced. If the applicant had any means of substantiating that date, that information should be included in the application.

Finally, on this separate page in the application there should be a statement as to the length of the regulatory review period claimed including an explanation of how the applicant determined the length of the regulatory review period. It should be noted in the application that this particular calculation is made solely with respect to section 156(G)(1) thru (3) of Title 35 of the United States Code and does not take into account any other limitations or restrictions on the length of possible patent extension.

(11) A brief description beginning on a new page of the significant activities undertaken by the marketing applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities. This description should include an identification of significant communications of substance with the Food and Drug Administration (FDA) and the dates related to such communications. For example, these activities would include the dates of the submission of new data to the FDA, communications between FDA and the applicant with respect to the appropriate protocols for testing the product, and communications between FDA and the applicant that are attempts to define the particular requirements for premarketing approval of this particular product.

(12) A statement beginning on a new page that in the opinion of the applicant the patent is eligible for the extension and a statement as to the length of extension claimed, including how the length of extension was determined and whether the 14 year limit of 35 U.S.C. 156(c)(3), the five year limit of 35 U.S.C. 156(g)(4)(A) or (B) or the two year limit of 35 U.S.C. 156(g)(4)(C) applies.

(13) A statement that applicant acknowledges a duty to disclose to the Commissioner of Patents and Trademarks and the Secretary of Health and Human Services any information which is material to the determination of entitlement to the extension sought (see § 1.765);

(14) The prescribed fee for receiving and acting upon the application for extension (see § 1.20(n));

(15) The name, address, and telephone number of the person to whom contacts and correspondence relating to the application for patent term extension are to be directed;

(16) A duplicate of the application papers, certified as such; and

(17) An oath or declaration as set forth in paragraph (b) of this section.

Paragraph (b) of § 1.740 requires that an oath or declaration signed by the owner of record of the patent or its agent accompany the application as a part thereof. An application for extension filed without an oath or declaration is not a formal application. The oath or declaration filed as a part of the application must specifically identify the application papers and the patent for which an extension is sought and include averments that the person signing the oath or declaration:

(1) Is the owner, an official of a corporate owner authorized to obligate the corporation, or a patent attorney or agent authorized to practice before the Patent and Trademark Office and who has general authority from the owner to act on behalf of the owner in patent matters.

(2) Has reviewed and understands the contents of the application being submitted pursuant to § 1.740;

(3) Believes the patent is subject to extension pursuant to § 1.710;

(4) Believes an extension of the length claimed is fully justified under 35 U.S.C. 156 and the applicable regulations; and

(5) Believes the patent for which the extension is being sought meets the conditions for extension of the term of a patent as set forth in § 1.720.

In signing the oath or declaration referred to in paragraph (b) of § 1.740 an official of a corporate owner or an attorney or agent acting on behalf of the owner is representing that he or she is the agent of the owner and has authority to act on behalf of the owner in filing the application for patent term extension. Note also § 1.730.

Paragraph (c) of § 1.740 provides for review of a holding that an application for patent term extension is informal by the filing of a petition with any appropriate fee, if necessary, pursuant to §§ 1.181, 1.182 or 1.183 of this title. Should an applicant disagree with the holding of informality and wish to have the holding reviewed, a petition under 37 CFR 1.181 would be appropriate. If applicant chooses to provide additional information to correct the informality, a petition under 37 CFR 1.182, accompanied by the required fee, should accompany such a filing.

The failure to timely comply with any requirement of these regulations which is not an explicit requirement of the statute may be waived under the appropriate circumstances in accordance with 37 CFR 1.183. While timely action is expected, relief under 37 CFR 1.183 may be appropriate in view of the tight time deadlines and other circumstances involved in filing an application for extension of the patent term. Any such petition must be filed with the required fee within such time as may be set, or if no time is set, within one month of the holding.

Comment: It has been suggested that § 1.740 be modified in order to permit the obtaining of a filing date for an application should it be found not to meet all of the requirements of § 1.740(a). The suggestion arises from a concern that an application which was filed within the 60 day filing period provided by statute and which was subsequently found to be informal within the meaning of the rules, might lose the filing date for failing to meet all requirements of the rules at the time of filing. Since the period for filing an application for patent term extension is limited by statute, it might not be possible for an applicant to correct such informalities within the statutory period of 60 days and could result in the loss of rights to an extension. In this regard it has also been suggested that the rules be modified to allow a filing date for a "substantially complete application" which might have been determined by the Patent-and Trademark Office to be incomplete or informal.

Reply: This suggestion has been essentially adopted by providing a new section designated 1.741 which specifically defines the requirements which must be met in order for an application to be entitled to a filing date. These requirements are those set forth in 35 U.S.C. 156(d)(1). Section 1.740(b) has been relettered as (a) and defines what constitutes a "formal application". Subparagraph (c) now provides for notice to applicant in the event that the application as filed is found to be informal as well as applicant's recourse to such a holding. If the requirements of § 1.741 are met, the filing date will have been established as provided therein even if the application is held to be informal under § 1.740.

Comment: Clarification of the requirements of §§ 1.740(a)(1) and 1.740(a)(4) has been requested with regard to products or methods of making or using them so as not to require the submission of trade secret information unless necessary for a determination of eligibility for patent term extension or at least enable the PTO to maintain the information of this type as a trade secret.

Reply: There is no provision in the statute or proposed rules for withholding from the public any information that is submitted to the PTO or FDA relating to an application for patent term extension. If proprietary or trade secret information is submitted to the Office, and specifically identified as such, it will be maintained in secret by the PTO until a certificate of patent term extension is issued. Identification should be made by page, line and word as necessary. If such information was necessary to a determination of eligibility or any other PTO responsibility under 35 U.S.C. 156, it will be made public at the time the certificate is issued. Otherwise, the trade secret information will be expunged from the file and returned to the patent term extension applicant, if the information regarded as a trade secret is specifically identified.

Comment: Section 1.740(a)(4) is confusing because it is unclear whether an applicant for a patented formulation that combines two active agents must submit information as to the regulatory review periods for each active ingredient separately, the combined active agents, or all of the above.

Reply: All of the above is correct, so that a determination can be made under 35 U.S.C. 156(a)(5).

Comment: Section 1.740(a)(4) should be modified to include a statement that the applicant is not prejudiced by the rule requirements in obtaining a patent term extension where some, but not all, active ingredients have been approved by the FDA for commercial marketing or use prior to approval of the new chemical entity (NCE) claimed in the patent for which a PTE application has been filed.

Reply: The basic issue presented by this comment is whether a patent claiming an approved product containing an old active ingredient (approved by FDA in a prior regulatory review) and a new active ingredient is eligible for patent term extension. The PTO has a long standing policy of not addressing an issue in advance of receiving an application presenting the issue for determination. However, the concept of patent term restoration appears to be directed to those situations where a new chemical entity is involved as an active ingredient, regardless of the content of the balance of the formulation approved by the FDA.

Comment: It has been suggested that § 1.740(a)(4) be deleted as redundant with §§ 1.740(a)(1) and 1.740(a)(3) and might be interpreted as requiring information not authorized by statute.

Reply: Section 1.740(a)(4) requires a statement, by applicant, that each active ingredient present in the approved product has not been previously approved for commercial marketing and use. This is a different requirement from either § 1.740(a)(1) or § 1.740(a)(3) which require an identification of the approved product and an identification of the date on which the product received permission for commercial marketing or use. This information is important to a determination of eligibility under 35 U.S.C. 156(a)(5). As to the question of information authorized by statute, 35 U.S.C. 156(d)(1)(E) permits the Commissioner to request any such information required.

Comment: It has been suggested that § 1.740(a)(6) be modified to include a requirement that the application, in identifying the patent for which extension is sought, include the date of expiration and such information should take into account any terminal disclaimer.

Reply: Section 1.740(a)(6) has been modified to require a statement of the expiration date.

Comment: It was observed that the proposed rules no longer require a "reissue style" cut-up copy of the original patent.

Reply: The observation is accurate since the PTO has found that a cut-up copy has not been required and only adds unnecessary work for the applicant and bulk to the application.

Comment: It has been suggested that § 1.740(a)(8) be modified by adding the requirement for a copy of any decision by a court of competent jurisdiction, which decision is adverse to the validity of the patent.

Reply: This suggestion has not been adopted because the patent owner or agent has a duty of disclosure under § 1.765 which would reasonably include the obligation to bring such a decision to the attention of the Office.

Comment: It has been suggested that the comments in the proposed preamble regarding § 1.740(a)(10) be revised to reflect that this subsection does not require a statement of the length of the regulatory review period and how it was determined.

Reply: This observation concerning the requirements of § 1.740(a)(10) was correct since there was no requirement that a description be provided as to how the regulatory review period is determined. However, since it would be helpful to the FDA in confirming its own calculation to have a statement concerning the length of the regulatory review period, including how the length was determined, these requirements have been made a part of § 1.740(a)(10).

Comment: It is suggested that the language of § 1.740(a)(11) which calls for a description of the activities carried out by the "applicant" is too restrictive since other parties may be involved in or sponsoring the FDA approval work.

Reply: The provisions of § 1.740(a)(11) have been modified to point out that a description of the activities of the marketing applicant before the FDA is required.

Comment: It has been suggested that § 1.740(a)(11) should be modified to require a description of "significant" or "material" activities undertaken by the marketing applicant during the applicable review period. It is argued that the section taken in combination with the related discussion in the proposed preamble places too great a burden on an applicant, i.e. submission of summaries of all communications and all dates of any activities regarding the FDA approval process.

Reply: The section has been modified so as to require a brief description of the significant activities undertaken by the marketing applicant during the applicable regulatory review period and the significant dates applicable thereto. Thus the requirements of this section may be met by an identification of significant communications of substance with the FDA during the regulatory review period and the dates related to such communications. There is no intent on the part of the PTO to broaden the burden of the statute, in regard to the description of the activities to which this section pertains, by requiring submission of insignificant details. The PTO does not read the statute to require an applicant to establish the existence of due diligence during the regulatory review period in order to have a complete application. It is recognized that the regulatory review process may be continuous and protracted. Not all communications are material to that process but certainly all of those which are significant to the regulatory review process should be identified. It is sufficient that the description of the activities briefly identify those significant activities undertaken by the marketing applicant in order to identify significant events in the effort directed toward regulatory approval of the product.

Comment: It has been suggested that the requirement of § 1.740(b)(1) that the person signing or declaring other than either the patent owner or corporate owner with the authority to obligate the corporation must have "specific" written authority to sign the oath or declaration was confusing and might well work a hardship on applicants since the rule is unclear as to just what type of authorization is required.

Reply: This section has been modified to include an attorney or agent who has general authority to take action on behalf of the patent owner with respect to patent matters so long as that person is registered to practice before the Patent and Trademark Office.

Comment: It has been suggested that § 1.740(c), which permits an applicant whose application has been found to be informal to file a petition with the required fee pursuant to §§ 1.181, 1.182 or 1.183, is unduely burdensome for minor informalities. It has been suggested, therefore, that an applicant be given a period in which to resubmit the application in corrected form together with a fee and avoid the filing of the described petition.

Reply: This suggestion has not been adopted since the PTO expects that the application will be complete and formal as filed. A petition, with the appropriate fee, as necessary is a well recognized mechanism for reviewing a holding that a defect exists or curing a defect in papers that have been submitted and providing an opportunity for applicant to explain how the defect occurred.

Section 1.741 provides that the filing date of an application for patent term extension will be the date on which an application is received in the Patent and Trademark Office or filed pursuant to the "Certificate of Mailing" provisions of 37 CFR 1.8 or "Express Mail" provisions of 37 CFR 1.10 and which includes all of the following:

(1) An identification of the approved product;

(2) An identification of the Federal statute under which regulatory review occured;

(3) An identification of the patent for which an extension is being sought;

(4) An identification of each claim of the patent which claims the approved product or a method of using or manufacturing the approved product;

(5) Sufficient information to enable the Commissioner to determine under 35 U.S.C. 156 subsection (a) and (b) the eligibility of a patent for extension and the rights that will be derived from the extension and information to enable the Commissioner and the Secretary of Health and Human Services to determine the period of the extension; and

(6) A brief description of the activities undertaken by the marketing applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities.

Section 1.741(b) provides that if an application submitted pursuant to this section is held to be incomplete, applicant may seek to have this holding reviewed under § 1.181.

Section 1.741 has been provided in response to concerns presented in many of the written comments received as to the limited statutory time period for filing an application for patent term extension and the possibility of not obtaining a filing date within the 60 day period during which the statute requires such an application to be filed. The rule now provides that the filing date will be that date on which the application is filed with the PTO and meets those requirements specifically set forth. These requirements are those specifically required by the statutory language of 35 U.S.C. 156(d)(1). The PTO will consider each of these statutory requirements to be satisfied in an application which provides sufficient information, directed to each requirement, to act on the application, even though further information may be desired by the PTO or Secretary before a final determination of eligibility and length of patent term extension is made.

Section 1.750 covers the determination of eligibility for extension of the term of a patent which will be made by the Patent and Trademark Office on the application for extension. As provided for by Pub. L. 98-417, and as set forth in this section, it is intended that the determination as to whether a patent is eligible for an extension can be made

solely on the representations contained in the application for extension filed in compliance with § 1.740 of this part. Section 1.750 does, however, provide that further information may be required of applicant by the Commissioner or other officials or the Commissioner or other officials may make such independent inquiries as desired before a final determination is made on whether a patent is eligible for extension. In circumstances where further information is required by the Office, the applicant will be given a time period within which to respond. The failure to file a response within the period provided may result in a final determination adverse to the granting of an extension of patent term unless the response period is extended. An extension of time to respond may be requested under the provisions of 37 CFR 1.136. Under appropriate circumstances, a request for information may contain a statement that the provisions of 37 CFR 1.136(a) are not available. The intentional failure to provide the information requested also will result in a final adverse determination.

A final determination may be made at any time after an application is filed, but no later than when a certificate of extension is issued. Section 1.750 provides that a single request for reconsideration of a final determination may be filed within one month or within such other time period set in the final determination. Section 1.750 also provides that the determination may be delegated to appropriate Patent and Trademark Office officials. A notice will be mailed to applicant containing the determination as to eligibility of the patent for extension and the period of time of the extension of the term, if any. This notice shall constitute the final determination as to eligibility and any period of extension of the patent term. If no response to the notice of final determination is received, the certificate of patent term extension will be issued in due course.

Comment: It has been suggested that § 1.750 be modified to expressly recognize that the rules being simultaneously promulgated by the FDA (Subpart B) provide for the FDA to give the PTO assistance in making eligibility determinations under the statute and that the PTO may seek such assistance and make such independent inquiries as it deems desirable in determining eligibility.

Reply: The § 1.750 has been modified by adding, immediately following the term "information", the phrase "or make such independent inquiries as desired".

Comment: It has been suggested that § 1.750 be modified to permit applicant to respond to a request for information or a notice under this section under the provisions of 37 CFR 1.136(a) upon payment of the appropriate fee. Applicant could thus extend the time for the required response without meeting the requirements of 37 CFR 1.136(b).

Reply: Sections 1.740(c) and 1.750 have been modified to permit extensions under 37 CFR 1.136. However, if time is of the essence for a particular reason, applicant should anticipate that a requirement made by the PTO would include a statement that extensions under 37 CFR 1.136(a) were not available.

Comment: It has been suggested that § 1.750 should be modified to provide notice to applicant, 30 days prior to a final determination of eligibility for extension of the identity of all patents or claims eligible for extension in order to permit time to choose which patent to extend and which to withdraw prior to the issuance of the certificate.

Reply: This proposal has not been adopted since applicant will be given an opportunity to elect in the notice of final determination. See § 1.770.

Comment: It has been suggested that the identification of a final route of appeal should be set forth as a second paragraph of § 1.750.

Reply: This proposal has not been adopted since no appeal is provided for by the legislation and the PTO does not determine the jurisdiction of the Federal Courts.

Section 1.760 provides for one or more interim extensions for periods of up to one year each where a complete application in compliance with § 1.741 has been filed by an applicant and a final determination pursuant to § 1.750 has not been made on the application. Section § 1.760 provides that the Commissioner may issue an interim extension with or without a request by the applicant. The section also provides that if an interim extension is granted, a notice will be issued to the applicant for the extension of the patent term, the notice would be recorded in the official file of the patent and will be considered as part of the original patent. Notification of the issuance of the interim extension will be published in the Official Gazette of the Patent and Trademark Office. In order for an interim extension to be granted, the application in compliance with § 1.741 must have been filed prior to the expiration date of the patent even though the interim extensions may not actually be granted until after the original expiration date of the patent. In no event will interim extensions be granted under § 1.760 for a period of patent term extension longer than that to which the patent would be eligible.

Comment: It has been suggested that § 1.760 be clarified as to whether the one year limitation appearing therein applies to each such extension or all such extensions added together could only be for a period of up to one year.

Reply: The section has been modified by adding the term "each" following the term "year", to make it clear that multiple extensions of up to one year each can be granted under appropriate circumstances.

Comment: It has been suggested that § 1.760 be modified to require a shorter filing period than the present 3-months prior to expiration of the patent where appropriate.

Reply: While § 1.760 provides that a request for an interim extension "should" be filed three months prior to the expiration of the patent, this time frame is not mandatory. Note further that the Commissioner may issue such an interim extension without the filing of a request. Any request filed within a shorter period of time will be considered, particularly where it is not possible to make an earlier request. The provisions of the rule state a highly desirable time frame for making a request, but not a mandatory time limit.

Comment: It has been suggested that § 1.760 be modified to provide that on issuance of an interim extension that the PTO will notify the patent holder, make the decision a part of the official record of the patent and publish the determination in the **Federal Register** and the Official Gazette of the PTO.

Reply: The section has been modified as suggested.

Comment: It has been suggested that § 1.760 be modified to provide for a single request for reconsideration of a PTO decision denying a request for an interim extension and that the patent would be granted an interim extension during the time required for reconsideration and any subsequent appeal.

Reply: While a request for reconsideration which was timely filed would be considered, a determination that an interim extension will not be issued would only occur where the Commissioner is not convinced that the subject patent is eligible for extension under 35 U.S.C. 156. Therefore, an interim extension while applicant sought reconsideration would also be improper.

Section 1.765 defines the duty of disclosure in patent term extension proceedings. Paragraph (a) of § 1.765 specifies the individuals on whom the

duty rests and the extent of the duty. Paragraph (b) of § 1.765 requires that disclosures pursuant to the section be accompanied by a copy of each written document being disclosed and specifies to whom the submission is to be made, i.e., the Patent and Trademark Office or the Secretary, as appropriate. Such disclosures would be able to be made through an attorney or agent.

Paragraph (c) of § 1.765 precludes a determination of eligibility for an extension or the issuance of a certificate if clear and convincing evidence of fraud or attempted fraud on the Office or the Secretary is determined to be present or the duty of disclosure is determined to have been violated through bad faith or gross negligence in connection with the patent term extension proceeding. Since the determination as to whether a patent is eligible for extension pursuant to § 1.750 may be made solely on the basis of the representations made in the application for extension, a final determination to refuse a patent term extension because of fraud or a violation of the duty of disclosure is expected to be rare.

Paragraph (d) of § 1.765 precludes submissions to the Patent and Trademark Office by or on behalf of third parties, thereby making patent term extension proceedings in the Office an *ex parte* matter between the patent owner or its agent and the Commissioner. Under paragraph (d) of § 1.765, submissions by third parties to the Office will be returned, or otherwise disposed of, without consideration. Paragraph (d) does not affect submissions authorized by Pub. L. 98–417 to be made to the Secretary during determination of the applicable regulatory review period.

Comment: It has been suggested that the language of section 1.765(d) is too limited in not permitting information bearing on violations of the duty of disclosure as well as other information relevant to the determination of eligibility of the patent for extension of term to be submitted to the Office by third parties.

Reply: Although Congress specifically provided for public input into the determination of the length of the regulatory review period, no such provision was made for proceedings before the PTO. Since applicant already has a duty of disclosure to both the PTO and FDA, and Congress expected that it would be an administratively simple proceeding, no input from third parties is considered appropriate.

Comment: It has been suggested that the definition of the phrase "patent term extension proceeding" should be spelled out.

Reply: Since the phrase clearly encompasses all phases of the proceeding between the filing of an application for the extension of the term of a patent until either the issuance of an extension certificate or a final denial of eligibility no longer subject to petition, request for reconsideration or appeal, defining the phrase is not deemed a necessary part of the rules.

Comment: It has been suggested that the phrase "information material to the" in line 12 of § 1.765(a) be changed to_____ material adverse to a _____, in order to avoid unnecessary submission of evidence or information which has no bearing on the proceedings.

Reply: This suggestion has been adopted since it is not intended to require information or evidence which has either no bearing on the proceeding or is material to a favorable determination by the Office or the Secretary.

Comment: It has been suggested that § 1.765 is unclear in that it applies the duty of disclosure relating to the patent term extension application to "each attorney or agent who represents the patent owner." There was concern of the effect of this broad duty of disclosure, for example, in a large corporation.

Reply: The language in this section specifically limits the duty of disclosure to those who are substantively involved on behalf of the patent owner in a patent term extension proceeding.

Comment: It has been suggested that § 1.765 should be clarified as to whether the duty of disclosure extends to prior art discovered since issuance of the patent.

Reply: Section 1.765(b) specifically states that an attorney, agent or patent owner has no duty to transmit information which is not material to the determination of entitlement to the extension sought.

Section 1.770 provides for the express withdrawal of an application for extension of the term of a patent if the written declaration of withdrawal signed by the owner of record or its agent is filed in the Office, in duplicate, before a determination is made pursuant to § 1.750. Under § 1.770, an application for extension of the term of a patent may not be expressly withdrawn after the date permitted for response to the final determination pursuant to § 1.750. Section 1.770 also provides that an express withdrawal is effective when acknowledged in writing by the Office and that the filing and acceptance of an express withdrawal does not entitle applicant to a refund of the filing fee for the application for patent term extension or any portion thereof.

Comment: It has been suggested that § 1.770 be modified to set forth reasons for withdrawal of an application for patent term extension.

Reply: Section 1.770 permits the withdrawal of an application for patent term extension for any reason prior to the date permitted for response to the final determination pursuant to § 1.750. Since reasons may arise at a later date for the withdrawal of such an application for patent term extension which are not contemplated at this time, it is preferable not to limit the reasons for withdrawal of the application under this section, but to deal with each reason on a case-by-case basis.

Comment: It has been suggested that § 1.770 be modified to permit the withdrawal of a patent term extension application within the 30 day period for response provided for in § 1.750.

Reply: This proposal has been adopted.

Section 1.775 provides the procedure for calculating the length of patent term extension for a human drug product.

Paragraph (a) of § 1.775 specifies that the extension will run from the original expiration date of the patent or any earlier date set by terminal disclaimer.

Paragraph (b) of § 1.775 provides that the patent term would be extended by the length of the regulatory review period for the product as determined by the Secretary of Health and Human Services but reduced, where appropriate, by the time periods provided in paragraph (d).

Paragraph (c) defines the length of the regulatory review period which is determined by the Secretary of Health and Human Services.

For a human drug product, the regulatory review period is defined in 35 U.S.C. 156(g)(1)(B) as the sum of:

(1) The number of days in the period beginning on the date an exemption under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act became effective for the approved human drug product and ending on the date an application was initially submitted for the drug product under section 505 or 507 above or under section 351 of the Public Health Service Act; and

(2) The number of days in the period beginning on the date the application was initially submitted for the approved human drug product under section 351 of the Public Health Service Act or subsection (b) of section 505 or 507 of the Federal Food, Drug, and Cosmetic Act and ending on the date the application was approved under the section.

This period is then reduced, where appropriate, by the time periods described in paragraph (d).

Paragraph (d) of § 1.775, defines the term of the patent extension by indicating that

(1) The time period determined from paragraph (c) would be reduced, where appropriate by

(i) The number of days in the periods of paragraph (c)(1) and (c)(2) of § 1.775 which were on and before the date on which the patent issued

(ii) The number of days from paragraphs (c)(1) and (c)(2) of § 1.775 during which it is determined under 35 U.S.C. 156(d)(2)(B) by the Secretary of Health and Human Services that applicant did not act with due diligence; and

(iii) One-half the number of days remaining in the period defined by paragraph (c)(1) after the period has been reduced in accordance with paragraphs (d)(1)(i) and (d)(1)(ii) of § 1.775. Half days will be ignored for purposes of subtraction.

(2) Adding the number of days determined in paragraph (d)(1) to the original term of the patent as shortened by any terminal disclaimer;

(3) Adding 14 years to the date of approval of the application under section 351 of the Public Health Service Act, or subsection (b) of section 505 or section 507 of the Federal Food, Drug, and Cosmetic Act;

(4) Comparing the dates for the ends of the periods obtained from (d)(2) and (d)(3) with each other and selecting the earlier date;

(5) If the original patent issued after September 24, 1984, (i) by adding 5 years to the original expiration date of the patent or any earlier date set by terminal disclaimer; and

(ii) By comparing the dates obtained in paragraphs (d)(4) and (d)(5)(i) with each other and selecting the earlier date.

(6) If the original patent was issued before September 24, 1984

(i) If no request was submitted for an exemption under subsection (i) of section 505 or subsection (d) of section 507 of the Federal Food, Drug, and Cosmetic Act before September 24, 1984, by (A) adding 5 years to the original expiration date of the patent or any earlier date set by terminal disclaimer and (B) by comparing the dates obtained in paragraphs (d)(4) and (d)(6)(i)(A) with each other and selecting the earlier date;

(ii) If a request was submitted for an exemption under subsection (i) of section 505 or subsection (d) of section 507 of the Federal Food, Drug, and Cosmetic Act, before September 24, 1984 and the commercial marketing or use of the product was not approved before September 24, 1984, by (A) adding 2 years to the original expiration date of the patent or any earlier date set by terminal disclaimer, and (B) by comparing the dates obtained in paragraph (d)(4) and (d)(6)(ii)(A) with each other and selecting the earlier date.

Comment: It has been suggested that the PTO publish a form for the use by patent term extension applicants in the calculation of the extension under §§ 1.775, 1.776 and 1.777.

Reply: This suggestion has been adopted. Suitable forms will be available from the PTO.

Comment: It has been suggested that §§ 1.775(d)(1)(ii); 1.776(d)(1)(ii) and 1.777(d)(1)(ii) be modified so as to avoid the double subtraction of any period for which an applicant has been found to have acted without due diligence where such period occurred prior to the issuance of the patent. This double subtraction would occur since both the period of regulatory review prior to the issuance of the patent and the total period of time in which applicant has been determined to have acted without due diligence is subtracted from the length of the regulatory review period on which the calulation of the period of extension of the patent is based.

Reply: This suggestion has not been adopted since the statute makes clear that any part of the regulatory review period which occurs before the patent was granted should not be counted toward patent term extension, and makes equally clear that any period in which the marketing applicant failed to exercise due diligence, thereby unnecessarily adding to the length of the regulatory review period after the patent issued, should not be considered in determining the length of the extension period.

Comment: It has been suggested that the language "half days will be ignored for purposes of subtraction" which appears in §§ 1.775(d)(1)(iii), 1.776(d)(1)(iii) and 1.777(d)(1)(iii) should be clarified.

Reply: The language in question appears in the sections which describe how the length of extension of the patent term to which an applicant is entitled is to be determined. Specifically the above listed sections are directed to the subtraction of one-half of the number of days in the period defined by subsection (c)(1), of the same section, after that period has been reduced in accordance with subsections (d)(1)(i) and (d)(1)(ii) from the regulatory review period as previously determined. Since one-half of an odd number of days will result in a fraction or one-half day, the above language, which appears in all three sections, indicates that the one half-day will be ignored and thus will not be subtracted from the regulatory review period.

Section 1.776 provides the procedure for calculating the patent term extension for a food additive or color additive. The paragraphs correspond to those of § 1.775.

Section 1.777 provides the procedure for calculating the patent term extension for a medical device. The paragraphs correspond to those of § 1.775 with the major difference being in the calculation of the regulatory review period.

Comment: It has been suggested that subsection (c) of § 1.777 be modified in order for the definition of the "date a clinical investigation on humans involving the device was begun" to be consistent with the definition provided by FDA (21 CFR 60.22(c)(1)).

Reply: This suggestion has not been adopted since the PTO has used the language of the statute and has left to FDA the determination of the length of the regulatory review period.

Section 1.780 specifies that once a determination is made pursuant to § 1.750 that a patent is eligible for extension, a certificate of extension, under seal, will be issued to the applicant for the extension of the term of the patent. Section 1.780 also provides that the certificate will be recorded in the official file of the patent and will be considered as part of the original patent. Section 1.780 also provides for notification of the issuance of the certificate of extension to be published in the *Official Gazette* of the Patent and Trademark Office.

No certificate or extension will be issued if the term of a patent cannot be extended, even though the patent is otherwise determined to be eligible for extension. In such situations the final determination made pursuant to § 1.750 would indicate that no certificate will issue.

Comment: It has been suggested that § 1.780 be modified to clarify the situations contemplated where a patent might be eligible for extension but the patent cannot be extended. If the only possible exceptions are those of §§ 1.765 and 1.785, the rule should so state this fact.

Reply: It is difficult to contemplate all the situations that might arise, but situations have occurred where the patent and approved product meet all the eligibility requirements of section 720, but the term of the patent cannot be extended because the patent issued less than three years before the product was approved by FDA.

Section 1.785 specifies the procedures to be followed where multiple

applications are filed for extension of the same patent or of different patents for the same regulatory review period for a product. Pub. L. 98–417 and § 1.785 provide that only one patent may be extended for a regulatory review period for any product. Under § 1.785, if more than one application for extension of the same patent is filed, the certificate of extension of the term of the patent, if appropriate, would be issued based upon the first filed application for extension of patent term. If applications are filed by a single applicant for extensions of the terms of different patents based upon the same regulatory review period for a product, the certificate of extension will be issued on the application for extension of the patent having the earliest date of issuance of those for which extension is sought unless all but a single application for the extension of one patent term is voluntarily withdrawn by applicant.

If applications are filed by different applicants for extension of the terms of different patents based upon the same regulatory review period for a product, the certificate of extension will be issued on the application of the holder of the regulatory approval granted with respect to the regulatory review period. If the holder of the regulatory approval granted with respect to the regulatory review period is not an applicant, the certificate of extension will issue to the applicant for extension which holds express an exclusive authorization from the holder of the regulatory approval to rely upon the regulatory review period as the basis for the application for extension. If the holder of the regulatory approval is not an applicant and has not given a prior express and exclusive authorization to seek extension based on the regulatory review period, the certificate of extension will be issued on the application for extension of the patent having the earliest date of issuance of those for which extension is sought.

An application for extension will be considered complete and formal whether it contains the identification of the holder of the regulatory approval granted with respect to the regulatory review period or express an exclusive authorization from the holder of the regulatory approval to rely on the regulatory review period for extension. A request may be made of any applicant to supply such information regarding the authorization on which applicant relies from the holder of the regulatory approval on which the application for extension is based. The failure to provide such information within the period for response shall be regarded as conclusively establishing that the applicant is not the holder of the regulatory approval and is not authorized by the holder of the regulatory approval to seek the extension being sought.

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities because patented drugs are generally not commercialized by small entities (Regulatory Flexibility Act, Pub. L. 96–354).

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less that $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The information collection requirement contained in this proposed rule has been submitted by OMB for review under section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Conflict of interest, Courts, Inventions and patents, Lawyers.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and Pub. L. 98–417, the Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations as set forth below.

PART 1—[AMENDED]

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.1 is amended by adding a new paragraph (f) before the note to read as follows:

§ 1.1 All communications to be addressed to the Commissioner of Patents and Trademarks.

* * * * *

(f) All applications for extension of patent term and any communications relating thereto intended for the Patent and Trademark Office should be additionally marked "Box Patent Ext." When appropriate, the communication should also be marked to the attention of a particular individual, as where a decision has been rendered.

3. Section 1.20 is amended by adding a new paragraph (n) to read as follows:

§ 1.20 Post-issuance fees.

* * * * *

(n) For filing an application for extension of the term of a patent (§ 1.740) 550.00

* * * * *

4. A new Subpart F—Extension of Patent Term, consisting of §§ 1.710 through 1.785 is added to read as follows:

Subpart F—Extension of Patent Term

Sec.

Subpart F—Extension of Patent Term

Authority: 35 U.S.C. 6 and 156.

§ 1.710 Patents subject to extension of the patent term.

(a) A patent is eligible for extension of the patent term if the patent claims a product as defined in paragraph (b) of this section, or a method of using such a product, or a method of manufacturing

such a product, and meets all other conditions and requirements of this subpart.

(b) The term "product" referred to in paragraph (a) of this section means—

(1) A human drug product which means the active ingredient of a new drug, antibiotic drug, or human biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act) including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient; or

(2) Any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.

§ 1.720 Conditions for extension of patent term.

The term of a patent may be extended if:

(a) The patent claims a product or a method of using or manufacturing a product as defined in § 1.710;

(b) The term of the patent has never been previously extended except for any interim extension issued pursuant to § 1.760;

(c) An application for extension is submitted in compliance with § 1.740;

(d) The product has been subject to a regulatory review period as defined in 35 U.S.C. 156(g) before its commercial marketing or use;

(e) The product has received permission for commercial marketing or use and—

(i) The permission for the commercial marketing or use of the product is the first received permission for commercial marketing or use under the provision of law under which the applicable regulatory review occurred, or

(ii) In the case of a patent claiming a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commercial marketing or use is the first received permission for the commercial marketing or use of a product manufactured under the process claimed in the patent;

(f) The application is submitted within the sixty day period beginning on the date the product first received permission for commercial marketing or use under the provisions of law under which the applicable regulatory review period occurred, or in the case of a patent claiming a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the application for extension is submitted within the sixty day period beginning on the date of the first permitted commercial marketing or use of a product manufactured under the process claimed in the patent;

(g) The term of the patent has not expired before the submission of an application in compliance with § 1.741; and

(h) No other patent term has been extended for the same regulatory review period for the product.

§ 1.730 Applicant for extension of patent term.

Any application for extension of a patent term must be submitted by the owner of record of the patent or its agent and must comply with the requirements of § 1.740.

§ 1.740 Application for extension of patent term.

(a) An application for extension of patent term must be made in writing to the Commissioner of Patents and Trademarks. A formal application for the extension of patent term shall include:

(1) A complete identification of the approved product as by appropriate chemical and generic name, physical structure or characteristics;

(2) A complete identification of the Federal statute including the applicable provision of law under which the regulatory review occurred;

(3) An identification of the date on which the product received permission for commercial marketing or use under the provision of law under which the applicable regulatory review period occurred;

(4) In the case of a human drug product, an identification of each active ingredient in the product and as to each active ingredient, a statement that it has not been previously approved for commercial marketing or use under the Federal Food, Drug and Cosmetic Act, or a statement of when the active ingredient was approved for commercial marketing or use (either alone or in combination with other active ingredients) and the provision of law under which it was approved.

(5) A statement that the application is being submitted within the sixty day period permitted for submission pursuant to § 1.720(f) and an identification of the date of the last day on which the application could be submitted;

(6) A complete identification of the patent for which an extension is being sought by the name of the inventor, the patent number, the date of issue, and the date of expiration;

(7) A copy of the patent for which an extension is being sought, including the entire specification (including claims) and drawings;

(8) A copy of any disclaimer, certificate of correction, receipt of maintenance fee payment, or reexamination certificate issued in the patent;

(9) A statement beginning on a new page that the patent claims the approved product or a method of using or manufacturing the approved product, and a showing which lists each applicable patent claim and demonstrates the manner in which each applicable patent claim reads on the approved product or a method of using or manufacturing the approved product;

(10) A statement beginning on a new page of the relevant dates and information pursuant to 35 U.S.C. 156(g) in order to enable the Secretary of Health and Human Services to determine the applicable regulatory review period as follows:

(i) For a patent that claims a human drug product, the effective date of the investigational new drug (IND) application and the IND number; the date on which a new drug application (NDA) was initially submitted and the NDA number; and the date on which the NDA was approved;

(ii) For a patent that claims a food or color additive, the date a major health or environmental effects test on the additive was initiated and any available substantiation of that date; the date on which a petition for product approval under the Federal Food, Drug and Cosmetic Act was initially submitted and the petition number; and the date on which the FDA published a Federal Register notice listing the additive for use;

(iii) For a patent that claims a medical device, the effective date of the investigational device exemption (IDE) and the IDE number, if applicable, or the date on which the applicant began the first clinical investigation involving the device if no IDE was submitted and any available substantiation of that date; the date on which an application for product approval under section 515 of the Federal Food, Drug and Cosmetic Act was initially submitted and the number of the application; and the date on which the application was approved.

(11) A brief description beginning on a new page of the significant activities undertaken by the marketing applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities;

(12) A statement beginning on a new page that in the opinion of the applicant the patent is eligible for the extension

and a statement as to the length of extension claimed, including how the length of extension was determined;

(13) A statement that applicant acknowledges a duty to disclose to the Commissioner of Patents and Trademarks and the Secretary of Health and Human Services any information which is material to the determination of entitlement to the extension sought (see § 1.765);

(14) The prescribed fee for receiving and acting upon the application for extension (see § 1.20(n));

(15) The name, address, and telephone number of the person to whom inquiries and correspondence relating to the application for patent term extension are to be directed;

(16) A duplicate of the application papers, certified as such; and

(17) An oath or declaration as set forth in paragraph (b) of this section.

(b) Any oath or declaration submitted in compliance with paragraph (a) of this section must be signed by the owner of record of the patent or its agent, specifically identify the papers and the patent for which an extension is sought and aver that the person signing the oath or declaration:

(1) Is the owner, an official of a corporate owner authorized to obligate the corporation, or a patent attorney or agent authorized to practice before the Patent and Trademark Office and who has general authority from the owner to act on behalf of the owner in patent matters.

(2) Has reviewed and understands the contents of the application being submitted pursuant to this section;

(3) Believes the patent is subject to extension pursuant to § 1.710;

(4) Believes an extension of the length claimed is justified under 35 U.S.C. 156 and the applicable regulations; and

(5) Believes the patent for which the extension is being sought meets the conditions for extension of the term of a patent as set forth in § 1.720.

(c) If any application for extension of patent term submitted pursuant to this section is held to be informal, applicant may seek to have that holding reviewed by filing a petition with the required fee, as necessary, pursuant to § 1.181, § 1.182 or § 1.183, as appropriate, within such time as may be set in the notice that the application has been held to be informal, or if no time is set, within one month of the date on which the application was held informal. The time periods set forth herein are subject to the provisions of 37 CFR 1.136.

§ 1.741 Filing date of application.

(a) The filing date of an application for extension of patent term is the date on which a complete application is received in the Patent and Trademark Office or filed pursuant to the "Certificate of Mailing" provisions of 37 CFR 1.8 or "Express Mail" provisions of 37 CFR 1.10.

A complete application shall include:

(1) An identification of the approved product;

(2) An identification of the Federal statute under which regulatory review occurred;

(3) An identification of the patent for which an extension is being sought;

(4) An identification of each claim of the patent which claims the approved product or a method of using or manufacturing the approved product;

(5) Sufficient information to enable the Commissioner to determine under 35 U.S.C. 156 subsections (a) and (b) the eligibility of a patent for extension and the rights that will be derived from the extension and information to enable the Commissioner and the Secretary of Health and Human Services to determine the period of the extension; and

(6) A brief description of the activities undertaken by the marketing applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities.

(b) If any application submitted pursuant to this section is held to be incomplete, applicant may seek to have this holding reviewed under § 1.181.

§ 1.750 Determination of eligibility for extension of patent term.

A determination as to whether a patent is eligible for extension may be made by the Commissioner solely on the basis of the representations contained in the application for extension filed in compliance with § 1.740. This determination may be delegated to appropriate Patent and Trademark Office officials and may be made at any time before the certificate of extension is issued. The Commissioner or other appropriate officials may require from applicant further information or make such independent inquiries as desired before a final determination is made on whether a patent is eligible for extension. A notice will be mailed to applicant containing the determination as to the eligibility of the patent for extension and the period of time of the extension, if any. This notice shall constitute the final determination as to the eligibility and any period of extension of the patent. A single request for reconsideration of a final determination may be made if filed by the applicant within such time as may be set in the notice of final determination or, if no time is set, within one month from the date of the final determination. The time periods set forth herein are subject to the provisions of 37 CFR 1.136.

§ 1.760 Interim extension of patent term.

An applicant who has filed a formal application for extension in compliance with § 1.740 may request one or more interim extensions for periods of up to one year each pending a final determination on the application pursuant to § 1.750. Any such request should be filed at least three months prior to the expiration date of the patent. The Commissioner may issue interim extensions, without a request by the applicant, for periods of up to one year each until a final determination is made. The patent owner or agent will be notified when an interim extension is granted and notice of the extension will be published in the Offical Gazette of the Patent and Trademark Office. The notice will be recorded in the official file of the patent and will be considered as part of the original patent. In no event will the interim extensions granted under this section be longer than the maximum period of extension to which the applicant would be eligible.

§ 1.765 Duty of disclosure in patent term extension proceedings.

(a) A duty of candor and good faith toward the Patent and Trademark Office and the Secretary of Health and Human Services rests on the patent owner or its agent, on each attorney or agent who represents the patent owner and on every other individual who is substantively involved on behalf of the patent owner in a patent term extension proceeding. All such individuals who are aware, or become aware, of material information adverse to a determination of entitlement to the extension sought, which has not been previously made of record in the patent term extension proceeding must bring such information to the attention of the Office or the Secretary, as appropriate, in accordance with paragraph (b) of this section, as soon as it is practical to do so after the individual becomes aware of the information. Information is material where there is a substantial likelihood that the Office or the Secretary would consider it important in determinations to be made in the patent term extension proceeding.

(b) Disclosures pursuant to this section must be accompanied by a copy of each written document which is being disclosed. The disclosure must be made to the Office or the Secretary, as appropriate, unless the disclosure is

material to determinations to be made by both the Office and the Secretary, in which case duplicate copies, certified as such, must be filed in the Office and with the Secretary. Disclosures pursuant to this section may be made to the Office or the Secretary, as appropriate, through an attorney or agent having responsibility on behalf of the patent owner or its agent for the patent term extension proceeding or through a patent owner acting on his or her own behalf. Disclosure to such an attorney, agent or patent owner shall satisfy the duty of any other individual. Such an attorney, agent or patent owner has no duty to transmit information which is not material to the determination of entitlement to the extension sought.

(c) No patent will be determined eligible for extension and no extension will be issued if it is determined that fraud on the Office or the Secretary was practiced or attempted or the duty of disclosure was violated through bad faith or gross negligence in connection with the patent term extension proceeding. If it is established by clear and convincing evidence that any fraud was practiced or attempted on the Office or the Secretary in connection with the patent term extension proceeding or that there was any violation of the duty of disclosure through bad faith or gross negligence in connection with the patent term extension proceeding, a final determination will be made pursuant to § 1.750 that the patent is not eligible for extension.

(d) The duty of disclosure pursuant to this section rests on the individuals identified in paragraph (a) of this section and no submission on behalf of third parties, in the form of protests or otherwise, will be considered by the Office. Any such submissions by third parties to the Office will be returned to the party making the submission, or otherwise disposed of, without consideration by the Office.

§ 1.770 Express withdrawal of application for extension of patent term.

An application for extension of patent term may be expressly withdrawn before a determination is made pursuant to § 1.750 by filing in the Office, in duplicate, a written declaration of withdrawal signed by the owner of record of the patent or its agent. An application may not be expressly withdrawn after the date permitted for response to the final determination on the application. An express withdrawal pursuant to this section is effective when acknowledged in writing by the Office. The filing of an express withdrawal pursuant to this section and its acceptance by the Office does not entitle applicant to a refund of the filing fee (§ 1.20(n)) or any portion thereof.

§ 1.775 Calculation of patent term extension for a human drug product.

(a) If a determination is made pursuant to § 1.750 that a patent for a human drug product is eligible for extension, the term shall be extended by the time as calculated in days in the manner indicated by this section. The patent term extension will run from the original expiration date of the patent or any earlier date set by terminal disclaimer (§ 1.321).

(b) The term of the patent for a human drug product will be extended by the length of the regulatory review period for the product as determined by the Secretary of Health and Human Services, reduced as appropriate pursuant to paragraphs (d)(1) through (d)(6) of this section.

(c) The length of the regulatory review period for a human drug product will be determined by the Secretary of Health and Human Services. Under 35 U.S.C. 156(g)(1)(B), it is the sum of—

(1) The number of days in the period beginning on the date an exemption under subsection (i) of section 505 or subsection (d) of section 507 of the Federal Food, Drug, and Cosmetic Act became effective for the approved human drug product and ending on the date an application was initially submitted for such drug product under those sections or under section 351 of the Public Health Service Act; and

(2) The number of days in the period beginning on the date the application was initially submitted for the approved human drug product under section 351 of the Public Health Service Act, subsection (b) of section 505 or section 507 of the Federal Food, Drug, and Cosmetic Act and ending on the date such application was approved under such section.

(d) The term of the patent as extended for a human drug product will be determined by—

(1) Subtracting from the number of days determined by the Secretary of Health and Human Services to be in the regulatory review period:

(i) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section which were on and before the date on which the patent issued;

(ii) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section during which it is determined under 35 U.S.C. 156(d)(2)(B) by the Secretary of Health and Human Services that applicant did not act with due diligence;

(iii) One-half the number of days remaining in the period defined by paragraph (c)(1) of this section after that period is reduced in accordance with paragraphs (d)(1)(i) and (ii) of this section; half days will be ignored for purposes of subtraction;

(2) By adding the number of days determined in paragraph (d)(1) of this section to the original term of the patent as shortened by any terminal disclaimer;

(3) By adding 14 years to the date of approval of the application under section 351 of the Public Health Service Act, or subsection (b) of section 505 or section 507 of the Federal Food, Drug, and Cosmetic Act;

(4) By comparing the dates for the ends of the periods obtained pursuant to paragraphs (d)(2) and (d)(3) of this section with each other and selecting the earlier date;

(5) If the original patent was issued after September 24, 1984,

(i) By adding 5 years to the original expiration date of the patent or any earlier date set by terminal disclaimer; and

(ii) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(5)(i) of this section with each other and selecting the earlier date;

(6) If the original patent was issued before September 24, 1984, and

(i) If no request was submitted for an exemption under subsection (i) of section 505 or subsection (d) of section 507 of the Federal Food, Drug, and Cosmetic Act before September 24, 1984, by—

(A) Adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer; and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(i)(A) of this section with each other and selecting the earlier date; or

(ii) If a request was submitted for an exemption under subsection (i) of section 505 or subsection (d) of section 507 of the Federal Food, Drug, or Cosmetic Act before September 24, 1984 and the commercial marketing or use of the product was not approved before September 24, 1984, by—

(A) Adding 2 years to the original expiration date of the patent or earlier date set by terminal disclaimer, and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(ii)(A) of this section with each other and selecting the earlier date.

§ 1.776 Calculation of patent term extension for a food additive or color additive.

(a) If a determination is made pursuant to § 1.750 that a patent for a

food additive or color additive is eligible for extension, the term shall be extended by the time as calculated in days in the manner indicated by this section. The patent term extension will run from the original expiration date of the patent or earlier date set by terminal disclaimer (§ 1.321).

(b) The term of the patent for a food additive or color additive will be extended by the length of the regulatory review period for the product as determined by the Secretary of Health and Human Services, reduced as appropriate pursuant to paragraphs (d)(1) through (d)(6) of this section.

(c) The length of the regulatory review period for a food additive or color additive will be determined by the Secretary of Health and Human Services. Under 35 U.S.C. 156(g)(2)(B), it is the sum of—

(1) The number of days in the period beginning on the date a major health or environmental effects test on the additive was initiated and ending on the date a petition was initially submitted with respect to the approved product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product; and

(2) The number of days in the period beginning on the date a petition was initially submitted with respect to the approved product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and ending on the date such regulation became effective or, if objections were filed to such regulation, ending on the date such objections were resolved and commercial marketing was permitted or, if commercial marketing was permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings were finally resolved and commercial marketing was permitted.

(d) The term of the patent as extended for a food additive or color additive will be determined by

(1) Subtracting from the number of days determined by the Secretary of Health and Human Services to be in the regulatory review period:

(i) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section which were on and before the date on which the patent issued;

(ii) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section during which it is determined under 35 U.S.C. 156(d)(2)(B) by the Secretary of Health and Human Services that applicant did not act with due diligence;

(iii) The number of days equal to one-half the number of days remaining in the period defined by paragraph (c)(1) of this section after that period is reduced in accordance with paragraphs (d)(1) (i) and (ii) of this section; half days will be ignored for purposes of subtraction;

(2) By adding the number of days determined in paragraph (d)(1) of this section to the original term of the patent as shortened by any terminal disclaimer;

(3) By adding 14 years to the date a regulation for use of the product became effective or, if objections were filed to such regulation, to the date such objections were resolved and commercial marketing was permitted or, if commercial marketing was permitted and later revoked pending further proceedings as a result of such objections, to the date such proceedings were finally resolved and commercial marketing was permitted;

(4) By comparing the dates for the ends of the periods obtained pursuant to paragraphs (d)(2) and (d)(3) of this section with each other and selecting the earlier date;

(5) If the original patent was issued after September 24, 1984,

(i) By adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer; and

(ii) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(5)(i) of this section with each other and selecting the earlier date;

(6) If the original patent was issued before September 24, 1984, and

(i) If no major health or environmental effects test was initiated and no petition for a regulation or application for registration was submitted before September 24, 1984, by

(A) Adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer, and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(i)(A) of this section with each other and selecting the earlier date; or

(ii) If a major health or environmental effects test was initiated or a petition for a regulation or application for registration was submitted by September 24, 1984, and the commercial marketing or use of the product was not approved before September 24, 1984, by

(A) Adding 2 years to the original expiration date of the patent or earlier date set by terminal disclaimer, and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(ii)(A) of this section with each other and selecting the earlier date.

§ 1.777 Calculation of patent term extension for a medical device.

(a) If a determination is made pursuant to § 1.750 that a patent for a medical device is eligible for extension, the term shall be extended by the time as calculated in days in the manner indicated by this section. The patent term extension will run from the original expiration date of the patent or earlier date as set by terminal disclaimer (§ 1.321).

(b) The term of the patent for a medical device will be extended by the length of the regulatory review period for the product as determined by the Secretary of Health and Human Services, reduced as appropriate pursuant to paragraphs (d)(1) through (d)(6) of this section.

(c) The length of the regulatory review period for a medical device will be determined by the Secretary of Health and Human Services. Under 35 U.S.C. 156(g)(3)(B), it is the sum of

(1) The number of days in the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act; and

(2) The number of days in the period beginning on the date the application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act, and ending on the date such application was approved under such Act or the period beginning on the date a notice of completion of a product development protocol was initially submitted under section 515(f)(5) of the Act and ending on the date the protocol was declared completed under section 515(f)(6) of the Act.

(d) The term of the patent as extended for a medical device will be determined by—

(1) Substracting from the number of days determined by the Secretary of Health and Human Services to be in the regulatory review period pursuant to paragraph (c) of this section:

(i) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section which were on and before the date on which the patent issued;

(ii) The number of days in the periods of paragraphs (c)(1) and (c)(2) of this section during which it is determined under 35 U.S.C. 156(d)(2)(B) by the Secretary of Health and Human Services that applicant did not act with due diligence;

(iii) One-half the number of days remaining in the period defined by paragraph (c)(1) of this section after that period is reduced in accordance with paragraphs (d)(1) (i) and (ii) of this section; half days will be ignored for purposes of subtraction;

(2) By adding the number of days determined in paragraph (d)(1) of this section to the original term of the patent as shortened by any terminal disclaimer;

(3) By adding 14 years to the date of approval of the application under section 515 of the Federal Food, Drug, and Cosmetic Act or the date a product development protocol was declared completed under section 515(f)(6) of the Act;

(4) By comparing the dates for the ends of the periods obtained pursuant to paragraphs (d)(2) and (d)(3) of this section with each other and selecting the earlier date;

(5) If the original patent was issued after September 24, 1984,

(i) By adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer; and

(ii) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(5)(i) of this section with each other and selecting the earlier date;

(6) If the original patent was issued before September 24, 1984, and

(i) If no clinical investigation on humans involving the device was begun or no product development protocol was submitted under section 515(f)(5) of the Federal Food, Drug, and Cosmetic Act before September 24, 1984, by

(A) Adding 5 years to the original expiration date of the patent or earlier date set by terminal disclaimer and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(i)(A) of this section with each other and selecting the earlier date; or

(ii) If a clinical investigation on humans involving the device was begun or a product development protocol was submitted under section 515(f)(5) of the Federal Food, Drug, and Cosmetic Act before September 24, 1984 and the commercial marketing or use of the product was not approved before September 24, 1984, by

(A) Adding 2 years to the original expiration date of the patent or earlier date set by terminal disclaimer, and

(B) By comparing the dates obtained pursuant to paragraphs (d)(4) and (d)(6)(ii)(A) of this section with each other and selecting the earlier date.

§ 1.780 Certificate of extension of patent term.

If a determination is made pursuant to § 1.750 that a patent is eligible for extension and that the term of the patent is to be extended, a certificate of extension, under seal, will be issued to the applicant for the extension of the patent term. Such certificate will be recorded in the official file of the patent and will be considered as part of the original patent. Notification of the issuance of the certificate of extension will be published in the Official Gazette of the Patent and Trademark Office. No certificate of extension will be issued if the term of the patent cannot be extended, even though the patent is otherwise determined to be eligible for extension. In such situations the final determination made pursuant to § 1.750 will indicate that no certificate will issue.

§ 1.785 Multiple applications for extension of term of the same patent or of different patents for the same regulatory review period for a product.

(a) Only one patent may be extended for a regulatory review period for any product (§ 1.720(g)). If more than one application for extension of the same patent is filed, the certificate of extension of patent term, if appropriate, will be issued based upon the first filed application for extension.

(b) If more than one application for extension is filed by a single applicant which seeks the extension of the term of two or more patents based upon the same regulatory review period, and the applications are otherwise eligible for extension pursuant to the requirement of this subpart, the certificate of extension of patent term, if appropriate, will be issued upon the application for extension of the patent having the earliest date of issuance of those patents for which extension is sought.

(c) If an application for extension is filed which seeks the extension of the term of a patent based upon the same regulatory review period as that relied upon in one or more applications for extension pursuant to the requirements of this subpart, the certificate of extension of patent term will be issued on the application only if—

(1) The applicant for extension is the holder of the regulatory approval granted with respect to the regulatory review period, or

(2) The holder of the regulatory approval granted with respect to the regulatory review period is not an applicant and the applicant for extension holds express and exclusive authorization from the holder of the regulatory approval to rely upon the regulatory review period as the basis for the application for extension, or

(3) The holder of the regulatory approval granted with respect to the regulatory review period is not an applicant and no applicant for extension holds an express and exclusive authorization from the holder of the regulatory approval to rely upon the regulatory review period as the basis for the application for extension and the application is for extension of the patent having the earliest date of issuance of those patents for which extension is sought based upon the same regulatory review period.

(d) An application for extension shall be considered complete and formal regardless of whether it contains the identification of the holder of the regulatory approval granted with respect to the regulatory review period or express and exclusive authorization from the holder of the regulatory approval to rely on the regulatory review period for extension. When an application contains such information, or is amended to contain such information, it will be considered in determining whether an application is eligible for an extension under this section. A request may be made of any applicant to supply such information within a non-extendable period of not less than one (1) month whenever multiple applications for extension of more than one patent are received and rely upon the same regulatory review period. Failure to provide such information within the period for response set shall be regarded as conclusively establishing that the applicant is not the holder of the regulatory approval and is not expressly and exclusively authorized by the holder of the regulatory approval to seek the extension being sought.

(e) Determinations made under this section shall be included in the notice of final determination of eligibility for extension of the patent term pursuant to § 1.750 and shall be regarded as part of that determination.

Dated: January 9, 1987.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

State-Federal Cooperative Agreements; Illinois; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements; Illinois

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is proposing to adopt a cooperative agreement between the Department of the Interior and the State of Illinois for the regulation of surface coal mining and reclamation operations and certain coal exploration operations on Federal lands in Illinois. Such a cooperative agreement is provided for under section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMORA). This proposed rule provides the proposed terms of the cooperative agreement and additional information on other issues.

DATES: *Written Comments:* OSMRE will accept written comments on the proposed rule until 4:30 p.m. eastern time on April 23, 1987.

Public Hearing: Upon request, OSMRE will hold a public hearing on the proposed rule on April 21, 1987, beginning at 9:00 a.m. local time. The public hearing will be held at the location shown in **"ADDRESSES"** below.

OSMRE will accept requests for a public hearing until 4:30 p.m. eastern time on April 14, 1987. If no person has contacted OSMRE by that date to express an interest in testifying at the hearing, it will be canceled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: *Written Comments:* Mail to the Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, 600 East Monroe Street, Springfield, Illinois 62701, or hand-deliver to the same address.

Public Hearing: If requested, a public hearing will be held at the Springfield Field Office of the Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701.

Requests for a public hearing should be made by contacting the individual listed under **"FOR FURTHER INFORMATION CONTACT."**

Availability of Copies: Copies of the proposed agreement and the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

Illinois Department of Mines and Minerals, Land Reclamation Division, 227 South 7th Street, Springfield, Illinois 62706.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, 10 Parkway Center, Pittsburgh, Pennsylvania 15220.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5315, 1100 L Street, NW., Washington, DC.

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, 600 East Monroe Street, Springfield, Illinois 62701.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701, Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments on the proposed agreement should be specific, should be confined to issues pertinent to the agreement, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearing

The hearing will begin at 9:00 a.m. and continue until all persons then in attendance wishing to testify have been heard. The hearing will be transcribed by a court reporter. To assist the court reporter and to ensure an accurate record, OSMRE requests that persons who testify give the reporter a written copy of their testimony. To assist OSMRE in preparing appropriate questions to clarify issues, OSMRE also requests that persons planning to testify submit an advance copy of their testimony to the OSMRE address for submission of written comments (see **"ADDRESSES"**).

Persons interested in attending the hearing but not testifying should contact the individual listed under **"FOR FURTHER INFORMATION CONTACT"** prior to the scheduled hearing date to see if the hearing has been cancelled.

Public Meetings

Representatives of OSMRE will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. Persons wishing to schedule or attend such meetings, should contact the individual listed under **"FOR FURTHER INFORMATION CONTACT."** OSMRE representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Springfield Field Office of the Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701.

Contacts With State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process under SMCRA. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Department employees and officials during permanent program cooperative

agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet the State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive session will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSMRE receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assume an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

II. The State of Illinois' Application

The purpose of this proposed rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of Illinois which will give Illinois primacy in the administration of its approved permanent regulatory program on Federal lands in the State.

Section 523(c) of SMCRA, 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745, allow a State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that [a]ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c).

On December 22, 1981, Illinois submitted its proposed permanent regulatory program. The Secretary reviewed and conditionally approved the permanent regulatory program on June 1, 1982.

On November 7, 1986, James R. Thompson, Governor of Illinois, requested that a permanent program cooperative agreement be entered into between the Secretary of the Interior and the Governor of Illinois.

Section 745.11(b)(1) through (8) of OSMRE's regulations require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of Illinois submitted an initial draft of a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on August 14, 1986. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the Illinois Department of Mines and Minerals was described in Illinois' Proposed Permanent Coal Program Text. See 30 CFR 745.11(b). In addition, the State of Ilinois submitted a written certification from the Chief Legal Counsel of the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD), that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of Mines and Minerals, acting through the LRD, to fully comply with section 523(c) of SMCRA, as implemented by 30 CFR Part 745. See 30 CFR 745.11(b)(3).

III. Summary of the Terms of the Proposed Cooperative Agreement

A summary of the proposed cooperative agreement appears below. OSMRE emphasizes that the proposed cooperative agreement may be subject to further change as a result of public comment and/or further discussion with the State of Illinois.

The nature and extent of the Secretary's ability to delegate authority for surface coal mining operations on Federal lands to States through cooperative agreements was a subject of a recent Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C. July 6, 1984). The Illinois Cooperative agreement proposed here is consistent with that opinion and delegates the Secretary's authority under SMCRA which is required to be covered under the Federal lands program and retains the Secretary's non-delegable responsibilities under the Mineral Leasing Act.

Although OSMRE has not yet amended the scope of the Federal lands program, 30 CFR Subchapter D, to be consistent with the District Court decision, this agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this agreement, OSMRE and the Secretary will promptly initiate the steps necessary to conform the agreement.

Article I: Introduction, Purposes, and Responsible Agencies

Paragraph A of Article I would set forth the legal authority for the Illinois Cooperative Agreement (Agreement), which is provided by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA). This paragraph would state that the Agreement provides for State regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Part 3480, Subparts 3480 through 3487, in Illinois of Federal lands. Paragraph B would set out the purposes of the Agreement.

Paragraph C would name the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD), as the agency responsible for administering the Agreement on behalf of the Governor of Illinois (Governor), and the Office of Surface Mining Reclamation and Enforcement (OSMRE) as the agency responsible for administering the Agreement on behalf of the Secretary of the Department of the Interior (Secretary).

Article II: Effective Date

Article II would provide that after if has been signed by the Secretary and the Governor, the Agreement would become effective 30 days after publication as a final rule in the Federal

Register. It would remain in effect until terminated as provided in Article XI.

Article III: Definitions

Article III would provide that any terms and phrases used in the Agreement have the same meanings as set forth in the Federal and State Acts, regulations promulgated pursuant to those Acts, 30 CFR Parts 700, 701 and 740, and the approved State program (Program). Defining terms and phrases in this manner would ensure consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, those included in the State Program would apply.

Article IV: Applicability

Article IV would state that the laws, regulations, terms, and conditions of Illinois' approved State program are applicable to Federal lands in Illinois except as otherwise stated in the Agreement, SMCRA, 30 CFR 740.4, 740.11(a) and 745.13, and other applicable laws, Executive Orders, or regulations. This provision is consistent with the Federal lands program, which made the Illinois State program Federal law on all Federal lands in Illinois.

The reference to the Illinois State Program is intended to encompass the approval of that State program on June 1, 1982, and any amendments thereto which are approved in accordance with 30 CFR 732.17. Excluded from the scope of the Agreement are the authorities and responsibilities reserved to the Secretary pursuant to the Act, 30 CFR 740.4 and 745.13 and other applicable laws, Executive Orders, or regulations.

Article V: General Requirements

Article V would mutually bind the Governor and the Secretary to the provisions of the Agreement.

Paragraph A would require that LRD continue to have authority under State law to carry out the Agreement.

Paragraph B (Funds) would provide that upon application for funds the State shall be reimbursed by OSMRE pursuant to section 705(c) of the Act if necessary funds have been appropriated to OSMRE by Congress. Section 705(c) of SMCRA provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would otherwise have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1285(c). The reference in section 705(c) to section 523(d) is obviously a typographical error; the correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26.

If, when requested by the State, adequate funds have not been appropriated, OSMRE and LRD would meet and decide on appropriate measures to ensure that mining operations are regulated in accordance with the approved State program.

Paragraph C of Article V would require the State to make annual reports to OSMRE with respect to compliance with this Agreement. Paragraph C would also provide for a general exchange of information developed under the Agreement, unless such an exchange is prohibited by Federal law. Final evaluation reports prepared by OSMRE on State administration and enforcement of this Agreement would be provided to LRD. The Agreement would require that LRD's comments on the report be appended before being sent to Congress and other interested parties.

Paragraph D would require LRD to maintain the necessary personnel to fully implement this Agreement.

Paragraph E would require that LRD avail itself of the facilities necessary to carry out the requirements of the Agreement. This provision would ensure that the State has access to and would utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this Agreement.

Paragraph F of Article V concerns permit application fees and civil penalties. Permit fees would be determined according to section 2.05 of the State Act, section 1771.25 of the State regulations, and the applicable provisions of the State program and Federal law. Any permit fees collected by the State that would be attributable to the Federal lands covered by this agreement would be considered program income. The State would retain all permit fees from operations on Federal lands and deposit them with the State Treasurer. The State would report the amount of these fees in the finanical status report required under 30 CFR 735.26. Civil penalties or fines collected by the State would not be considered program income.

Article VI: Review of a Permit Application Package

Paragraphs A through C of Article VI would generally describe the procedures that the State and OSMRE would follow in the review and analysis of permit application packages (PAP) for operations on Federal lands.

"Permit application package" is a term adopted by OSMRE in the Federal lands program (48 FR 6912, February 16, 1983). It is the material submitted by an applicant proposing to mine on Federal lands, including applications for permit revisions and renewals. OSMRE adoped the term because there are requirements for mining on Federal lands in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency under Federal laws other than SMCRA. The package concept allows for such information to be included with the permit application required by the approved State program. See the definition of "permit application package" under 30 CFR 740.5.

Under paragraph A, an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands would be required by LRD and the Secretary to submit a PAP in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP.

The PAP would be in the form required by LRD and include any supplemental information required by OSMRE, the Federal land management agency and other agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. At a minimum, the PAP would be required to satisfy the requirements of 30 CFR 740.13(b) and must include the information necessary for LRD to make a determination of compliance with the approved State program and for OSMRE and appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders and regulations for which they are responsible.

The Agreement would also specify that for any outstanding or pending applications of Federal lands being processed by OSMRE prior to the effective date of this Agreement, OSMRE will maintain sole permit decision responsibility. After the final decision, all additional responsibilities shall pass to LRD pursuant to the terms of this Agreement.

Paragraph B of Article VI would describe the procedures that LRD and OSMRE will follow for review of a PAP where leased Federal coal is not involved.

Under paragraph B.1., LRD would assume the responsibilities listed in 30

CFR 740.4(c) (1), (2), (4), (6), and (7) where a PAP does not involve leased Federal coal to the extent authorized.

The phrase "to the extent authorized" means that the exceptions to delegable responsibilities identified in 30 CFR 740.4(c) cannot be removed from OSMRE responsibility.

Also, to assure a more efficient administrative approach, LRD would be delegated the responsibility for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. This would not restrict LRD from consulting with such other agencies.

Paragraph B.2. would assign to LRD the primary responsibility for the analysis, review, and approval or disapproval of the permit application component of the PAP. LRD would also be the principal contact for the applicant on issues concerned with the development, review and approval of the permit application package or an application for permit revision or renewal for mining on lands in Illinois on Federal lands and would be responsible for informing applicants of determinations.

Under paragraph B.3., the Secretary would make his non-delegable determinations under SMCRA: some of these, such as those of section 522(b), have been delegated to OSMRE.

Under paragraph B.4., OSMRE and LRD would coordinate with each other, as needed. OSMRE would provide, upon request, technical assistance to LRD. OSMRE would be responsible for forwarding any information from applicants, including copies of correspondence that have a bearing on the PAP, to LRD. Any information in LRD files concerning operations on lands subject to the Federal lands program would be available to OSMRE. The Secretary would reserve the right to act independently of LRD and to carry out responsibilities under laws other than SMCRA. OSMRE would also provide assistance to LRD in resolving conflicts with land management agencies.

Under paragraph B.5., LRD would made a decision on approval or disapproval of the permit on Federal lands.

LRD would be required to include in the permit any lawful terms or conditions imposed by the Federal land management agency and would require that the lawful requirements of that agency be met. The permit would also be required to include the lawful terms and conditions required by other applicable Federal laws and regulations. LRD would give written notification to the Federal land management agency, the applicant, and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. LRD would provide a copy of the permit and written findings to OSMRE upon request.

Paragraph C of Article VI discusses review procedures for PAP's where leased Federal coal is involved and, consequently, where the Secretary must make a decision on a mining plan.

Under paragraph C.1., LRD would assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6), and (7), to the extent authorized.

LRD would, to the extent authorized, take on the delegable responsibilities for review and approval, disapproval or conditional approval of permit applications, revisions or renewals thereof, and applications for transfer, sale and assignment of such permit under 30 CFR 740.4(c)(1). OSMRE would assist LRD in this review, upon request, to the extent possible. The Secretary retains those responsibilities that cannot be delegated to LRD including those under the Federal lands program, MLA, NEPA, this agreement, and other applicable Federal laws. The Secretary would consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws. The Secretary would carry out his responsibilities in a timely manner and avoid, to the extent possible, duplication of those responsibilities delegated to the State in this Agreement and the Program. Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with concurrence of any Federal agency involved, and without amendment to this Agreement.

Paragraph C.2. would designate LRD as the primary contact for applicants in matters regarding review of the PAP. As such, LRD would inform the applicant of all joint State-Federal determinations. On matters concerned exclusively with 43 CFR Part 3480, Subparts 3480 through 3487, the Bureau of Land Management (BLM) would be the primary contact with the applicant, and would provide LRD with documentation on its decisions. LRD would provide OSMRE with copies of correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE would provide LRD with copies of all correspondence with the applicant which may have a bearing on the PAP. OSMRE would not ordinarily contact the applicant regarding the PAP, although OSMRE would not be prevented from doing so.

The Secretary reserves the right to act independently of LRD to carry out departmental responsibilities under law other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands programs.

LRD would consult with and obtain the consent of the Federal land management agency concerning post-mining land use and protection of non-coal resouces, and would consult with and obtain the consent of the BLM with respect to development, production, and recovery of mineral resources where operations involve leased Federal coal.

LRD would also obtain the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD would request that all Federal agencies submit their findings or any requests for additional date to LRD, and when necessary to OSMRE, within 45 days of receiving the PAP.

The review of the PAP will be done to ensure timely identification, communication and resolution of issues relating to statutory requirements of Federal agencies. LRD will request that other Federal agencies also inform OSMRE of their analyses and conclusions.

Under paragraph C.3., LRD would take on the responsibilities under 30 CFR 740.4(c)(4) and (6). LRD would prepare documentation to comply with NEPA under 30 CFR 740.4(c)(7), but OSMRE would retain the non/delegable responsibilities under 30 CFR 740.4(c)(7)(i) through (vii).

OSMRE would assist the State in carrying out its responsibilities by coordinating resolution of conflicts between LRD and other Federal agencies in a timely manner between those Federal agencies involved. OSMRE would further assist by helping to schedule joint meetings, upon request.

OSMRE would exercise its responsibilities in a timely manner and would provide LRD with a work product within 50 days of receiving the State's request for assistance in reviewing the permit application unless a different time is agreed upon by OSMRE and LRD.

Paragraph C.4. would describe the procedures that OSMRE and the State would follow in reviewing the PAP. OSMRE and LRD would coordinate their activities and exchange information

during the review process. The State would review the PAP to ensure compliance with the Program and State law and regulations, while OSMRE would review the PAP to ensure compliance with the non-delegable responsibilities of SMCRA and other Federal laws and regulations. Unless the District of Columbia circuit of appeals reverses the July 6, 1984, District Court Opinion in *In re: Permanent Surface Mining Regulations Litigation II, supra*, review of the MLA mining plan would include review of the operation and reclamation plan component of the SMCRA permit application. OSMRE and the State would plan and schedule PAP review and each would choose a project leader, who would serve as the primary points of contact for both during the review process. OSMRE would provide the State with its review comments within 50 days of receiving the PAP.

LRD would prepare a State decision package indicating whether the PAP complies with the Program. The review and finalization of the State's decision package would be conducted in accordance with procedures agreed upon by LRD and OSMRE for processing PAPs.

LRD could issue a SMCRA permit before the necessary Secretarial approval of the mining plan. However, LRD must advise the operator that Secretarial approval of the mining plan must be obtained before the operator enters the Federal lease. The permit issued by the State would be required to include the terms and conditions required by the lease and those required by other applicabe Federal laws and regulations.

After making its decision, LRD would notify the applicant the Federal land management agency and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. A copy of the permit and written finding would be submitted to OSMRE.

Under paragraph C.5., OSMRE would provide technical assistance to LRD upon request, if available resources allow.

Paragraph D of Article VI addresses review procedures for permit revisions; renewals; and transfer, assignment or sale or permit rights.

Paragraph D.1. would assign to LRD the authority to review, approve or disapprove permit revisions or renewals not constituting modifications of a mining plan pursuant to 30 CFR 746.18. LRD must consult with OSMRE on whether any permit revision or renewal constitutes a mining plan modification. OSMRE would inform LRD within 30 days of receiving a copy of the permit revision or renewal as to such a decision. Where approval of a mining plan modification is required, OSMRE and LRD would follow the procedures outlined in paragraphs C.1 through C.5. of this Article.

Under paragraph D.2., OSMRE may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions or renewals clearly do not constitute mining plan modifications. Those revisions or renewals meeting the criteria may be approved by LRD prior to contacting OSMRE

Under paragraph D.3., permit revisions or renewals not constituting mining plan modifications and meeting the criteria outlined in paragraph D.2. would be reviewed and approved or disapproved by the State following the procedures outlined in 62 Ill. Adm. Code 1774 and paragraph B of this Article.

Under paragraph D.4., transfer, assignment or sale of permit rights would be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

Article VII: Inspections

Paragraphs A and B would state that LRD would conduct inspections on lands covered by this Agreement and prepare and file State inspection reports in accordance with its approved Program.

Paragraph C would designate LRD as the point of contact and primary inspection authority in dealing with the operator. However, the Secretary would retain the right to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to LRD for the purpose of evaluating the manner in which the Agreement is being carried out and insuring that performance and reclamation standards are being met.

Paragraph D states that when OSMRE intends to conduct an inspection under 30 CFR 842.11, LRD will ordinarily be given reasonable notice of such an inspection to provide an opportunity for State inspectors to join in the inspection. When a Federal inspection is in response to a citizen complaint, such as the threat of imminent harm to the public or the environment, OSMRE would give LRD at least 24 hours notice, if practical. All citizen complaints not involving an imminent harm to the public or the environment will be referred to LRD for action.

The Article would preserve OSMRE's obligation and authority to conduct inspections pursuant to 30 CFR Parts 842 and 843. The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected.

Article VIII: Enforcement

Article VIII would set forth the enforcement obligations and authorities of OSMRE and LRD.

Under paragraph A, LRD would have primary enforcement authority on Federal lands in accordance with the requirements of the Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders would be reserved by the Secretary.

Under paragraph B, LRD would have primary responsibility for enforcement during joint inspections with OSMRE. Paragraph B also would include a requirement that LRD notify OSMRE prior to suspending or revoking a permit.

Paragraph C would preserve OSMRE's authority to take enforcement action to comply with 30 CFR Parts 843 and 845, where OSMRE conducted an inspection or where, during a joint inspection with LRD, the two could not agree on the appropriateness of a particular enforcement action. Such action would be based upon SMORA or the substantive provisions contained in the program, or both, but would use the Federal procedures and penalty system.

Paragraph D would provide that OSMRE and LRD notify each other of all violations of applicable regulations and all actions taken on the violations.

Paragraph E would provide that personnel of LRD and the Department of the Interior, including OSMRE, be mutually available to serve as witnesses in enforcement actions taken by either party.

Paragraph F would specify that this Agreement would not limit the Secretary's authority to enforce Federal laws other than SMORA.

Article IX: Bonds

Under paragraph A, LRD and the Secretary would require each operator conducting operations of Federal lands to submit a performance bond payable to both the State and the United States. All applicable State and Federal requirements must be fulfilled prior to releasing an operator from any obligation covered by the performance bond. If the Agreement is terminated, paragraph A would require that the portion of the bond covering Federal lands reverts to being payable solely to the United States. LRD would advise OSMRE of annual adjustments to the performance bond pursuant to the Program.

Paragraph B would state that release and forfeiture of performance bonds would be in accordance with procedures and requirements of the Program. Where

surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSMRE.

Paragraph C clarifies that the performance bond does not meet the requirement for a Federal lease bond under 43 CFR Part 3474, or for the lessee protection bond required in certain circumstances by section 715 of the SMORA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

Paragraph A.1 of Article X would reserve to the Secretary authority to designate Federal lands as unsuitable for surface coal mining and reclamation operations and activities, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6) of SMORA.

Paragraph A.2 states that LRD and OSMRE will notify each other of any petition to designate lands as unsuitable that could impact adjacent Federal and non-Federal lands, and solicit and consider each other's views on a petition. OSMRE will coordinate with the Federal land management agency with jurisdiction over the area covered by the petition, and will solicit comments.

Paragraph B discusses valid existing rights (VER) determinations. OSMRE's definition of VER, which was published on September 14, 1983, (48 FR 41314), relied on a general "takings" standard.

In its March 22, 1985, decision, the District Court remanded this definition because the promulgation process violated the Administrative Procedure Act. On November 20, 1986, OSMRE published a suspension notice for the definition of VER pending further rulemaking. OSMRE has decided, for areas covered by sections 522(e) (1) and (2), to make VER determinations in Illinois using the VER definition contained in the State regulatory program in accordance with 30 CFR 740.11(a) and the suspension notice. Because the illinois State program has a takings test, OSMRE will not process VER applications in Illinois within units of the National Park System until a Federal rule is finalized.

Paragraph B.1. would state that OSMRE has responsibility for processing requests for VER determinations on Federal lands within the boundaries of areas where mining is prohibited by section 522(e)(1) of SMCRA. For private inholdings within section 522(e)(1) areas, LRD, with the consultation and concurrence of OSMRE, would determine whether operations on such lands would or would not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE would have the responsibility for processing requests for VER determinations on private inholdings within the boundaries of section 522(e)(1) areas where mining affects the Federal interest.

Under paragraph B.2, OSMRE would be responsible for processing requests for determinations of VER for proposed operations on Federal lands within the boundaries of any national forest, as identified in section 522(e)(2) of SMCRA. This authority would be reserved by the Secretary in accordance with 30 CFR 745.13(o). OSMRE would process compatibility determinations on Federal lands pursuant to section 522(e)(2) of SMCRA.

Under paragraph B.3, LRD would determine for Federal lands, whether the prohibitions of limitations of section 522(e)(3) of SMCRA are applicable to proposed mining operations which would adversely affect any public park, and any historic property listed in the National Register of Historic Places in consultation with the State Historic Preservation Officer. LRD would also make the VER determination for such lands using the State program. Procedures would also be included for LRD to coordinate with any affected agency or agency with jurisdiction over the proposed operation.

Under paragraph B.4, LRD would process and make VER determinations on Federal lands, using the State program, for all areas limited or prohibited by sections 522(e) (4) and (5) of SMCRA as unsuitable for mining. For such operations on Federal lands, LRD would coordinate with the affected agency and agency with jurisdiction over the proposed operation.

Article XI: Termination of Cooperative Agreement

Article XI would specify that this cooperative agreement may be terminated as specified under 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

Article XII would provide that, if terminated, the cooperative agreement may be reinstated under 30 CFR 745.16. That provision allows for reinstatement of a cooperative agreement upon application by the State after remedying the defects for which the Agreement was terminated and the submission of evidence to the Secretary that the State can and will comply with all of the provisions of the Agreement.

Article XIII: Amendment of Cooperative Agreement

Article XIII would provide that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State of Federal Standards

Paragraph A of Article XIV would recognize that the Secretary or the Governor may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. If it is determined to be necessary to keep the Agreement in force, the State would request necessary legislative action and either the State or OSMRE would change or revise its regulations or promulgate new regulations, as applicable. Such changes would be made in accordance with 30 CFR Part 732 for changes to the approved State program and section 501 of the Act for changes to the Federal lands program.

Paragraph B would require the State and OSMRE to provide each other with copies of changes in their respective laws and regulations.

Article XV: Changes in Personnel and Organization

Article XV would require LRD and OSMRE to advise each other of substantial changes in organization, funding, staff, or other changes which could affect administration or enforcement of the Agreement.

Article XVI: Reservation of Rights

Article XVI would recognize that the Act, 30 CFR 745.13, and other legal authorities prohibit the Secretary from delegating certain authorities to the State. Article XVI would state that this Agreement would not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMORA, or their regulations, including those listed in Appendix A of this Agreement.

IV. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for Federal/State cooperative agreements from the requirements of

sections 3 and 7 of Executive Order 12291.

The Department has reviewed this proposed agreement in light of the Regulatory Flexibility Act (Pub. L. 96–354). Having conducted this review, the Department has determined that this document will not have a significant economic effect on a substantial number of small entities because no significant departure from either the State or Federal requirements already in effect will occur and no new or additional information will be required by the proposed agreement.

2. Paperwork Reduction Act of 1980

There are recordkeeping and reporting requirements in the proposed Illinois Cooperative Agreement which are the same as and required by the permanent program regulations. Those regualtions required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	*OMB Clearance No.*
Article VI.A. (Required by 30 CFR Part 773)	1029–0041
Article VII.A. (Required by 30 CFR Part 840)	1029–0051
Article IX.A. (Required by 30 CFR Part 800)	1029–0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Author

The author of this regulation is Mr. James F. Fulton, Director Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701; Telephone: (217) 492–4495.

List of Subject in 30 CFR Part 913

Coal mining; Intergovernmental relations; Surface mining; Underground mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 913 as follows.

Dated: March 13, 1987.

J. Steven Griles,

Assistant Secretary-Land and Minerals Management.

PART 913—[AMENDED]

1. The Authority citation for Part 913 is revised to read as follows:

Authority: 30 U.S.C. 1201 et seq., Pub. L. 95–87.

2. Section 913.30 is added to read as follows:

§ 913.30 State-Federal Cooperative Agreement.

The Governor of the State of Illinois (Governor) and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction, Purposes and Responsible Agencies

A. Authority:

This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under section 503 of SMCRA, 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation of surface coal exploration operations not subject to 43 CFR Part 3480, Subparts 3480 through 3487, and surface coal mining and reclamation operations in Illinois on Federal lands (30 CFR Chapter VII Subchapter D), consistent with SMCRA and State and Federal laws governing such activities and the Illinois State (Program).

B. Purpose:

The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Part 3480; (b) minimize intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all lands in Illinois in accordance with SMCRA, the Program, and this Agreement.

C. Responsible Administrative Agencies:

The Land Reclamation Division (LRD) of the Illinois Department of Mines and Minerals will be responsible for administering this Agreement on behalf of the Governor. The Office of Surface Mining Reclamation and Enforcement (OSMRE) will administer this Agreement of behalf of the Secretary.

Article II: Effective Date

After being signed by the Secretary and the Governor, this Agreement will take effect 30 days after publication in the **Federal Register** as a final rule. This Agreement will remain in effect until terminated as provided in Article XI.

Article III: Definitions

The terms and phrases used in this Agreement which are defined in SMCRA, 30 CFR Parts 700, 701 and 740, the Program, including the State Act [Ill. Rev. Stat. Ch 96½, Section 7901 *et seq.* (1985)], and the rules and regulations promulgated pursuant to those Acts, will be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the Program will apply.

Article IV: Applicability

In accordance with the Federal lands program, the laws, regulations, terms and conditions of the Program are applicable to Federal lands in Illinois except as otherwise stated in this Agreement, SMCRA, 30 CFR 740.4, 740.11(a) and 745.13, and other applicable Federal laws, Executive Orders, or regulations.

Article V: General Requirements

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. Authority of State Agency:

LRD has and will continue to have the authority under State law to carry out this Agreement.

B. Funds

1. Upon application by LRD and subject to appropriation, OSMRE will provide the State with the funds to defray the costs associated with carrying out its responsibilities under this Agreement as provided in section 705(c) of SMCRA, the grant agreement, and 30 CFR 735.16. Such funds will cover the full cost incurred by LRD in carrying out these responsibilities, provided that such cost does not exceed the estimated cost the Federal government would have expended on such responsibilities in the absence of this Agreement.

2. OSMRE's Springfield Field Office and OSMRE's Eastern Field Operations office will work with LRD to estimate the amount the Federal government would have expended for regulation of Federal lands in Illinois in the absence of this Agreement.

3. OSMRE and the State will discuss the OSMRE Federal lands cost estimate. After resolution of any issues, LRD will include the Federal lands cost estimate in the State's annual regulatory grant application submitted to OSMRE's Springfield Field Office.

The State may use the existing year's budget totals, adjusted for inflation and workload considerations in estimating regulatory costs for the following grant year. OSMRE will notify LRD as soon as possible if such projections are unrealistic.

4. If LRD applies for a grant but sufficient funds have not been appropriated to OSMRE, OSMRE and LRD will promptly meet to decide on appropriate measures that will insure that surface coal mining and reclamation operations on Federal lands in Illinois are regulated in accordance with the Program. If agreement cannot be reached, either party may terminate the Agreement in

accordance with Article XI of this Agreement.

5. Funds provided to the LRD under this Agreement will be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

C. Reports and Records

LRD will make annual reports to OSMRE containing information with respect to compliance with the terms of this Agreement pursuant to 30 CFR 745.12(d). Upon request, LRD and OSMRE will exchange information developed under this Agreement, except where prohibited by Federal or State law.

OSMRE will provide LRD with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement. LRD comments on the report will be appended before transmission to the Congress or other interested parties.

D. Personnel

Subject to adequate appropriations and grant awards, the LRD will maintain the necessary personnel to fully implement this Agreement in accordance with the provisions of SMORA, the Federal lands program, and the Program.

E. Equipment and Laboratories

Subject to adequate appropriations and grant awards, the LRD will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. Permit Application Fees and Civil Penalties

The amount of the fee accompanying an application for a permit for surface coal mining and reclamation operations on Federal lands in Illinois will be determined in accordance with Section 2.05 of the Illinois State Act, 62 Ill. Adm. Code 1771.25, and the applicable provisions of the Program and Federal law. All permit fees and civil penalty fines collected from operations on Federal lands will be retained by the State and will be deposited with the State Treasurer. Permit fees will be considered program income. Civil penalty fines will not be considered program income. The financial status report submitted pursuant to 30 CFR 735.26 will include a report of the amount of fees and fines collected during the State's prior fiscal year.

Article VI: Review of Permit Application Package

A. Submission of Permit Application Package

1. LRD and the Secretary require an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit a permit application package (PAP) in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an approrpriate number of copies of the PAP. The PAP will be in the form required by LRD and will include any supplemental information required by OSMRE, the Federal land managemet agency, and other agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

At a minimum, the PAP will satisfy the requirements of 30 CFR 740.13(b) and include the information necessary for LRD to make a determination of compliance with the Program and for OSMRE and the appropriate Federal agencies to make determinations of compliance with applicable requirements of SMORA, the Federal lands program, and other Federal laws, Executive Orders, and regulations for which they are responsibile.

2. For any outstanding or pending permit applications on Federal lands being processed by OSMRE prior to the effective date of this Agreement, OSMRE will maintain sole permit decision responsibility. After the final decision, all additional responsibilities shall pass to LRD pursuant to the terms of this Agreement.

B. Review Procedures Where There is No Leased Federal Coal Involved

1. LRD will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c)(1), (2), (4), (6) and (7). In addition to consultation with the Federal land management agency pursuant to 30 CFR 740.4 (c)(2), LRD will be responsibile for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdication or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request such Federal agencies to furnish their findings or any requests for additional information to LRD within 45 calendar days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request.

Responsibilities and decisions which can be delegated to LRD under other applicable Federal laws may be specified in working agreements between OSMRE and the State, with the concurrence of any Federal agency involved, and without amendment to this agreement.

2. LRD will assume primary responsibility for the anaylsis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations and activities in Illinois on Federal lands not requiring a mining plan pursuant to the Mineral Leasing Act (MLA). LRD will review the PAP for compliance with the Program and State Act and regulations. LRD will be the primary point of contact for applicants regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

3. The Sectretary will make his non-delegable determinations under SMORA, some of which have been delegated to OSMRE.

4. OSMRE and LRD will coordinate with each other during the review process as needed. OSMRE will provide technical assistance to LRD when requested, if available resources allow. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE may provide assistance to LRD in resolving conflicts with Federal land management agencies. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to LRD. OSMRE will have access to LRD files concerning operations on Federal lands. OSMRE will send to LRD copies of all resulting correspondence between OSMRE and the applicant that may have a bearing on decisions regarding the PAP. The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA.

5. LRD will make a decision on approval or disapproval of the permit on Federal lands.

(a) Any permit issued by LRD will incorporate any lawful terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and will be conditioned on compliance with the requirements of the Federal land management agency.

(b) The permit will include lawful terms and conditions required by other applicable Federal laws and regulations.

(c) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

A copy of the permit and written findings will be submitted to OSMRE upon request.

C. Review Procedures Where Leased Federal Coal is Involved

1. LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6) and (7), to the extent authorized.

In accordance with 30 CFR 740.4(c)(1), LRD will assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP for surface coal mining and reclamation operations in Illinois where a mining plan is required. OSMRE will, at the request of the State, assist to the extent possible in this analysis and review.

The Secretary will concurrently carry out his responsibilities that cannot be delegated to LRD under the Federal lands program, MLA, the National Environmental Policy Act (NEPA), this Agreement, and other applicable Federal laws. The Secretary will carry out these responsibilities in a timely manner and will avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws.

Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with concurrence of any Federal agency involved, and without amendment to this Agreement.

2. LRD will be the primary point of contact for applicants regarding the review of the PAP for compliance with the Program and State law and regulations. LRD will be responsible for informing the applicant of all joint State-Federal determinations. On

matters concerned exclusively with regulations under 43 CFR Part 3480, Subparts 3480 through 3487, the Bureau of Land Management (BLM) will be the primary contact with the applicant. BLM will inform LRD of its actions and provide LRD with a copy of documentation on all decisions. LRD will send to OSMRE copies of any correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will send to LRD copies of all OSMRE correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSMRE will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program.

Where necessary to make the determination to recommend that the Secretary approve the mining plan, OSMRE will consult with and obtain the concurrence of the BLM, the Federal land management agency and other Federal agencies as required.

The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

LRD will to the extent authorized, consult with the Federal land management agency and BLM pursuant to 30 CFR 740.4(c) (2) and (3), respectively. LRD will also be responsible for obtaining the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request all Federal agencies to furnish their findings or any requests for additional information to LRD within 45 days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request of LRD.

3. LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4), and for review and approval of exploration operations not subject to 43 CFR Part 3480, under 30 CFR 740.4(c)(6).

LRD will prepare documentation to comply with the requirements of NEPA under 30 CFR 740.4(c)(7); however, OSMRE will retain the responsibility for the exceptions in 30 CFR 740.4(c)(7)(i) through (vii).

OSMRE will assist LRD in carrying out LRD's responsibilities by:

(a) Coordinating resolution of conflicts and difficulties between LRD and other Federal agencies in a timely manner.

(b) Assisting in scheduling joint meetings, upon request, between State and Federal agencies.

(c) Where OSMRE is assisting LRD in reviewing the PAP, furnishing to LRD the work product within 50 calendar days of receipt of the State's request for such assistance, unless a different time is agreed upon by OSMRE and LRD.

(d) Exercising its responsibilities in a timely manner, governed to the extent possible by the deadlines established in the Program.

4. Review of the PAP: (a) OSMRE and LRD will coordinate with each other during the review process as needed. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE will ensure that any information OSMRE receives which has a bearing on decisions regarding the PAP is promptly sent ot LRD.

(b) LRD will review the PAP for compliance with the Program and State law and regulations.

(c) OSMRE will review the operation and reclamation plan portion of the permit application, and any other appropriate portions of the PAP for compliance with the non-delegable responsibilities of SMCFR and for compliance with the requirements of other Federal laws and regulations.

(d) OSMRE and LRD will develop a work plan and schedule for PAP review and each will identify a person as the project leader. The project leaders will serve as the primary points of contact between OSMRE and LRD throughout the review process. Not later than 50 days after receipt of the PAP, unless a different time is agreed upon, OSMRE will furnish LRD with its review comments on the PAP and specify any requirements for additional data. To the extent practicable, LRD will provide OSMRE all available information that may aid OSMRE in preparing any findings.

(e) LRD will prepare a State decision package, including written findings and supporting documentation, indicating whether the PAP is in compliance with the Program. The review and finalization of the State decision package will be conducted in accordance with procedures for processing PAPs agreed upon by LRD and OSMRE.

(f) LRD may make a decision on approval or disapproval of the permit on Federal lands in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that LRD advises the operator in the permit that Secretarial approval of the mining plan must be obtained before the operator may conduct coal development or mining operations on the Federal lease. LRD will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions imposed by the Secretary in his approval of the mining plan.

(g) The permit will include, as applicable, terms and conditions required by the lease issued pursuant to the MLA and by any other applicable Federal laws and regulations, including conditions imposed by the Federal land management agency relating to post-mining land use, and those of other affected agencies, and will be conditioned on compliance with the requirements of the Federal land management agency with jurisdiction.

(h) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal land affected by operations proposed in the PAP. A copy of the written findings and the permit will also be submitted to OSMRE.

5. OSMRE will provide technical assistance to LRD when requested, if available resources allow. OSMRE will have access to LRD files concerning operations on Federal lands.

D. Review Procedures for Permit Revisions; Renewals; and Transfer Assignment or Sale of Permit Rights

1. Any permit revision or renewal for an operation on Federal lands will be reviewed and approved or disapproved by LRD after consultation with OSMRE on whether such revision or renewal constitutes a mining plan modification pursuant to 30 CFR 746.18. OSMRE will inform LRD within 30 days of receiving a copy of a proposed revision or renewal, whether the permit revision, or renewal constitutes a mining plan modification. Where approval of a mining plan modification is required, OSMRE and LRD will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

2. OSMRE may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions and renewals clearly do not constitute mining plan modifications.

3. Permit revisions or renewals on Federal lands which are determined by OSMRE not to constitute mining plan modifications under paragraph D.1. of this Article or that meet the criteria for not being mining plan modifications as established under paragraph D.2. of this Article will be reviewed and approved following the procedures set forth in 62 I11. Adm. Code 1774 and paragraphs B.1. through B.5. of this Article.

4. Transfer, assignment or sale of permit rights on Federal lands shall be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

Article VII: Inspections

A. LRD will conduct inspections on Federal lands in accordance with 30 CFR 740.4(c)(5) and prepare and file inspection reports in accordance with the Program.

B. LRD will, subsequent to conducting any inspection pursuant to 30 CFR 740.4(c)(5), and on a timely basis, file with OSMRE a legible copy of the completed State inspection report.

C. LRD will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the Agreement, except as described hereinafter. Nothing in this Agreement will prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 843 and its obligations under laws other than SMCRA.

D. OSMRE will ordinarily give LRD reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection.

When OSMRE is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact LRD no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger of significant, imminent environmental harm will be referred to LRD for action. The

Secretary reserves the right to conduct inspections without prior notice to LRD to carry out his responsibilities under SMCRA.

Article VIII: Enforcement

A. LRD will have primary enforcement authority under SMCRA concerning compliance with the requirements of this Agreement and the Program in accordance with 30 CFR 740.4(c)(5). Enforcement authority given to the Secretary under other Federal laws and Executive orders including, but not limited to, those listed in Appendix A (attached) is reserved to the Secretary.

B. During any joint inspection by OSMRE and LRD, LRD will have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. LRD will inform OSMRE prior to issuance of any decision to suspend or revoke a permit on Federal lands.

C. During any inspection made solely by OSMRE or any joint inspection where LRD and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSMRE may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action will be based on the standards in the Program, SMCRA, or both, and will be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

D. LRD and OSMRE will promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of LRD and the Department of the Interior, including OSMRE, will be mutually available to serve as witness in enforcement actions taken by either party.

F. This Agreement does not affect or limit the Secretary's authority to enforce violations of Federal laws other than SMCRA.

Article IX: Bonds

A. LRD and the Secretary will require each operator who conducts operations on Federal lands to submit a performance bond payable to Illinois and the United States to cover the operator's responsibilities under SMCRA and the Program. Such performance bond will be conditioned upon compliance with all requirements of the SMCRA, the Program, State rules and regulations, and any other requirements imposed by the Secretary or the Federal land management agency. Such bond will provide that if this Agreement is terminated, the portion of the bond covering the Federal lands will be payable only to the United States. LRD will advise OSMRE of annual adjustments to the performance bond pursuant to the program.

B. Performance bonds will be subject to release and forfeiture in accordance with the procedures and requirements of the Program. Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSMRE.

C. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of SMCRA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

A. Unsuitability Petitions:

1. Authority to designate Federal lands as unsuitable for mining pursuant to a petition, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6), is reserved to the Secretary.

2. When either LRD or OSMRE receives a petition to designate land areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal or non-Federal lands pursuant to section 522(c) of SMCRA, the agency receiving the petition will notify the other of its receipt and the anticipated schedule for reaching a decision, and request and fully consider data, information and recommendation of the other. OSMRE will coordinate with the Federal land management agency with jurisdiction over the petition area, and will solicit comments from the agency.

B. Valid Existing Rights and Compatibility Determinations:

The following actions will be taken when requests for determinations of VER pursuant to section 522(e) of SMCRA, or for determinations of compatibility pursuant to section 522(e)(2) of SMCRA are received prior to or at the time of submission of a PAP that involves surface coal mining and reclamation operations and activities:

1. For Federal lands within the boundaries of any areas specified under section 522(e)(1) of SMCRA, OSMRE will determine whether VER exists for such areas.

For private inholdings within section 522(e)(1) areas LRD, with the consultation and concurrence of OSMRE, will determine whether operations on such lands will or will not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE will process VER determination requests on private inholdings within the boundaries of section 522(e)(1) areas where mining affects the Federal interest.

2. For Federal lands within the boundaries of any national forest where proposed operations are prohibited or limited by section 522(e)(2) of SMCRA and 30 CFR 761.11(b), OSMRE will make the VER determination. OSMRE will process requests for determinations of compatibility under section 522(e)(2) of SMCRA.

3. For Federal lands, LRD will determine whether any proposed operation will adversely affect any publicly owned park and, in consultation with the State Historic Preservation Officer, places listed in the National Register of Historic Places, with respect to the prohibitions or limitations of section 522(e)(3) of SMCRA. LRD will make the VER determination for such lands using the State Program. LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operations.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations will be permitted unless jointly approved by LRD and the Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

4. LRD will process and make determinations of VER of Federal lands, using the State Program, for all areas limited or prohibited by section 522(e)(4) and (5) of SMCRA as unsuitable for mining. For operations on Federal lands, LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operation.

Article XI: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

A. The Secretary or the Governor may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party will, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations or request necessary legislative action. Such changes will be made under the procedures of 30 CFR Part 732 for changes to the Program and under the procedures of section 501 of SMCRA for changes to the Federal lands program.

B. LRD and the Secretary will provide each other with copies of any changes to their respective laws, rules, regulations or standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization

Each party to this Agreement will notify the other, when necessary, of any changes in personnel, organization and funding, or other changes that may affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

Article XVI: Reservation of Rights

This Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA or their regulations, including but not limited to those listed in Appendix A.

Dated: _____

Signed: _____ _____

Governor of Illinois

Dated: _____
Signed: _____
Secretary of the Interior

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations, including 43 CFR Part 3480.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR Part 1500.

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR Part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.

6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*

10. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection.

12. Executive Order 11990 (May 24, 1977), for wetlands protection.

13. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

14. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

15. The Constitution of the United States.

16. Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

17. 30 CFR Chapter VII.

18. The Constitution of the State of Illinois.

19. Illinois Surface Coal Mining Land Conservation and Reclamation Act [Ill. Rev. State. 1979, Ch. 96 1/2/par. 7901 *et seq.*]

20. Illinois Department of Mines and Minerals, Coal Mining and Reclamation Permanent Program, Rules and Regulations, 62 Ill. Adm. Code 1700—1850.

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federal register

Tuesday
March 24, 1987

Part IV

Environmental Protection Agency

40 CFR Part 440

Ore Mining and Dressing Point Source Category; Gold Placer Mining; Effluent Limitations Guidelines and New Source Performance Standards; Second Notice of New Information and Request for Comment; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 440

[OW-FRL-3174-1]

Ore Mining and Dressing Point Source Category; Gold Placer Mining; Effluent Limitations Guidelines and New Source Performance Standards; Second Notice of New Information and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Second notice of new information and request for comments.

SUMMARY: EPA has obtained additional data and other information to be used to develop gold placer mining effluent limitations guidelines, and new source performance standards under the authority of the Clean Water Act. EPA requests comment on this new information. EPA proposed effluent limitations guidelines and new source performance standards for the gold placer mining subcategory of the ore mining and dressing point source category on November 20, 1985 (50 FR 47982). In that notice, EPA stated that the comment period on the proposal would close on March 14, 1986. The First Notice of New Information (NOA) was published February 14, 1986 (51 FR 5563) with closure of the comment period set for April 14, 1986.

DATE: Comments on this new information and on the proposed regulation must be submitted by May 8, 1987.

ADDRESSES: Send comments to William A. Telliard, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention ITD Docket Clerk. The supporting information and data described in this notice are available for inspection and copying at the following locations:

EPA Public Information Reference Unit, Room 2404 (Rear) PM-213, 401 M Street, SW., Washington, DC 20460

EPA Region X Library, 1200 Sixth Avenue, Seattle, Washington 98101

EPA Alaska Regional Office, Federal Building Room E556, 701 C Street, Anchorage, Alaska 99513

ADEC Northern Regional Office, 675 7th Avenue, Station K, Fairbanks, Alaska 99707

The comments on this notice will be considered in the development of the final effluent limitations guidelines and standards. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Willis E. Umholtz at (202) 382-7191. Economic information may be obtained from Mitchell Dubensky at (202) 382-5388.

SUPPLEMENTARY INFORMATION: The EPA proposed regulations on November 20, 1985 to limit the effluent discharges from the gold placer mining industry. (50 FR 47982). On February 14, 1986, the Agency published a notice of availability of new information and extended the period for commenting on the notice of proposed rulemaking (51 FR 5563). EPA announces today the availability for public review and comment of new technical and economic data and reports. Section III of this notice summarizes several new studies which the Agency will consider as it promulgates final effluent guidelines. These studies include: a 1986 field testing program conducted by EPA at eight mines in Alaska, studies on the performance of chemical treatment of placer mining wastewater, analysis of the presence and bioavailability of certain metals in mining effluent, and a study on the effects of recycling on fine gold recovery. EPA has also devised a new economic methodology to analyze the impacts on the placer mining industry of installing pollution control technology. That methodology is described in section V of this notice.

In light of this new data, EPA is considering several new regulatory options which were not discussed in the notice of proposed rulemaking. These possible changes are highlighted below in section I and discussed in detail in section IV. EPA is considering revising the subcategorization scheme presented in the November 20th notice. Section IV of this notice also presents new limitations guidelines and standards which the Agency may adopt in the final rule. The final regulations may incorporate any of the options presented in this or previous notices.

I. Changes From Proposal

Since these effluent guidelines were proposed, EPA has received comments and gathered additional data on the technical and economic aspects of this rulemaking. In light of this new information, the Agency is considering several changes from the analysis presented in the notice of proposed rulemaking. This section highlights the major revisions which the Agency is considering. They are discussed in further detail in the appropriate section of this notice.

Section IV of this notice discusses possible revisions in the subcategorization scheme which was presented in the notice of proposed rulemaking. The proposed regulation divided the placer mining industry into four subcategories, based on size and type of operation. One category was established for dredges processing more than 4,000 yds^3/day. The three other subcategories divided all other types of mining operations according to the amount of ore they processed per day.

The subcategories presented in section IV of this notice are also divided according to the size and type of mining operation. EPA is considering placing all dredges, regardless of size, in one subcategory. The Agency is considering dividing the remaining open-cut mines into three subcategories, based on *yearly* production volumes.

The proposed regulation based the effluent guidelines on the use of two technologies: simple settling and recycling. EPA has gathered data on the performance of chemically aided settling as a means of treating wastewater effluent, and is now considering chemical treatment as a possible basis for the final effluent guideline limitations.

Based on the availability of this new technology and the results of the Agency's revised economic impact analysis which is summarized in section V of this notice, EPA is considering new limitations based on best practicable technology (BPT), best conventional technology (BCT), best available technology (BAT), and new source performance standards (NSPS). They are discussed in section IV of this notice. EPA solicits comment on these possible changes.

The Agency has revised its methodology for examining the economic impacts of regulation on the placer mining industry. Both the proposal and this notice used economic modeling to measure the impacts of installing pollution control technology on open-cut mines. However, the Agency has modified substantially the model utilized for the proposal. The new methodology responds to many of the concerns expressed in comments on the earlier model utilized by the Agency. EPA believes that the new methodology more accurately reflects the economic realities of the placer mining industry. Section V of this notice reviews the methodology, and notes where changes have been made from that used previously by the Agency. Based on the new model, EPA has revised its estimates of the impact of regulation on the placer mining industry. The Agency

solicits comment on all the changes mentioned in this notice.

II. Summary of Proposed Regulations

On November 20, 1985, EPA proposed regulations to control the discharge of wastewater pollutants from the placer mining industry, a subcategory of the Ore Mining and Dressing Point Source Category (50 FR 47982). The proposed regulations included effluent limitation guidelines based on BPT, BCT, BAT and NSPS.

The notice of proposed rulemaking and the supporting technical documents fully explain this proposal. Below is a brief summary of the proposed regulation.

The proposal divided the placer mining industry into subcategories based on mine size and type. The Agency proposed not to establish effluent limitation guidelines and standards for small-scale mines processing less than 20 cubic yards per day (yds^3/day). These mines generally operate intermittently, using little or no mechanized equipment. They include recreational mines, and mines used for prospecting and mine development, research and assessment work. Because these mines process a low total volume of ore, they are not considered a major source of pollutants.

EPA did propose to establish effluent limitations guidelines and standards for all other placer gold mines.

The first and second subcategories covered by the proposed regulations contained mines which processed between 20 and 500 yds ^{3}/day and those which processed more than 500 yds ^{3}/day, respectively. The second subcategory also included a special type of mining operation, dredges, processing less than 4,000 yds ^{3} /day. The third subcategory consisted of dredges, which processed more than 4,000 yds ^{3}/day (large dredges).

The proposed regulations described three control and treatment technologies appropriate for the placer mining industry. These were settling, coagulation/flocculation, and recycle.

Settling is the use of ponds to reduce settleable solids (SS), total suspended solids (TSS), and turbidity associated with the solids in the wastewater. Toxic metals, such as arsenic and mercury, are in particulate form and can also be removed along with SS and TSS in this process. Single ponds or ponds in series may be used to retain the wastewater long enough to allow particulates to settle.

Coagulation/flocculation uses chemicals to aid in the further removal of particulate material through the destabilization of the solids suspended in the wastewater, thereby allowing more rapid and efficient settling. This increased efficiency enhances the overall solids removal and substantially reduces the residual suspended solids in the settling pond effluent.

Recycle of process wastewater is the total or partial reuse of process wastewater. Raw wastewater discharged from a typical placer mine is usually routed through a "tail race" or open channel to a primary settling pond for removal of settleable and suspended solids and associated metals. If recycle (partial or total) is employed, the pump suction intake is positioned in the settling pond so as to obtain the "cleanest" water possible with the least amount of suspended solids. Recycle is used to ensure adequate water supplies to the sluice in conditions of water shortage (small streams or fairly arid areas) and is used because it allows somewhat smaller end-of-pipe treatment ponds. Recycle is also fundamental to the operation of dredges, which literally are floating in a pond which serves both as water supply and effluent settling facility.

A. Best Practicable Control Technoloy Currently Available (BPT)

EPA based the proposed BPT limitations for all subcategories except large dredges on simple settling. Recycling was not chosen as the basis for BPT because, as an in-process (rather than end-of-pipe) technology, it was considered to be more appropriate as a model BAT technology. Chemical treatment was not the basis of BPT because, at the time of the proposal, the Agency was intending to conduct additional studies on the cost and effectiveness of coagulation/flocculation by chemical treatment.

Based upon the use of settling ponds, the Agency proposed BPT effluent limitations guidelines at 0.2 ml/l for SS and 2,000 mg/l for TSS. These were the levels that could be achieved by the use of settling ponds designed to retain the wastewater for a minimum of six hours.

The Agency based BPT for large dredges on total recycling of process wastewater. The Agency found that this technology was practicable, since all dredges already recycled their wastewater at a high rate. Thus, the BPT effluent limitation guideline for this subcategory was zero discharge of process wastewater. However, mines employing recycling were allowed to discharge nonprocess (excess) wastewater (i.e., water due to groundwater infiltration) as long as these discharges met applicable effluent limits.

B. Best Conventional Pollutant Control Technology (BCT)

Under section 301(b)(2)(E) of the Clean Water Act, BCT applies to conventional pollutants, including TSS. The Agency proposed to set the TSS level based on simple settling at 2,000 mg/l for mines processing between 20 and 500 yds^3/day. Therefore, for this class of mines, BCT requirements were the same as BPT. For mines larger than 500 yds^3/day, and large dredges, BCT requirements were based on recycling of process wastewater.

C. Best Available Technology Economically Achievable (BAT)

For mines processing between 20 and 500 yds^3/day, the Agency proposed BAT levels based on simple settling. EPA declined to propose more stringent requirements because it believed that for those mines recycling was not economically achievable and that more study was needed to demonstrate that coagulation/ flocculation technology was both viable and economically achievable. Thus, the proposed BAT effluent limitations guidelines for these mines were the same as the limits for BPT.

For mines processing more than 500 yds^3/day, and large dredges, BAT was based on total recycling of process water. Thus, the BAT limits for these mines were proposed identical to BCT.

D. New Source Performance Standards (NSPS)

EPA proposed NSPS equal to the effluent limitations guidelines proposed for BCT/BAT.

E. Storm Exemption

The proposed regulation contains a storm exemption provision which provides an exception to the standards established for normal operating conditions. This provision was included because the Agency believed that technology based standards could not require a properly designed and operated facility to treat all the wastewater which could result from an unusually heavy precipitation event. A mine is eligible for a storm exemption from the technology based standards if it has a treatment system which is designed, constructed, and maintained to contain the wastewater from normal operations plus the water resulting from a 5-year, 6-hour precipitation event that occurs over the mining, processing and treatment areas. The operator must also take all reasonable steps to minimize the excess discharge, and must notify the permitting authority of the event within a reasonable time.

F. Pollutants Not Regulated

One hundred and nine toxic organics, cyanide and eleven toxic metal pollutants were not proposed for regulation because they were not detected in placer mine discharges or were detected in amounts too small to be effectively reduced by known technologies. (These pollutants are listed in Appendix C of the proposal.)

The Agency did not propose to regulate arsenic and mercury because these pollutants were considered to be effectively controlled when the proposed SS and TSS limitations are met. Two other toxic pollutants, methylene chloride and bis(2-ethylhexyl)phthalate were detected in several mine samples, but were not proposed to be regulated because their detection was due to sample and laboratory contamination.

G. Cost and Economic Impacts

The economic methodology and impacts of the proposed regulation were documented in EPA's report, "Economic Impact Analysis of Proposed Effluent Limitations and Standards for the Gold Placer Mining Industry." Compliance costs were based on engineering estimates of the capital requirements and construction expenses of each technology option. The report estimated the impacts of the costs of the regulation, price changes, production changes, profitability changes, mine shutdowns, employment changes, local community impacts, balance of trade effects and industry structure changes.

The economic analysis document estimated that installing BPT technology would cost the industry $6.9 million. The incremental cost of complying with BCT/BAT/NSPS over and above the cost of BPT as proposed was found to be $3.9 million. The Agency projected that these increased costs would not have a significant economic impact on the industry.

H. Non-Water Quality Impacts

Discussion of non-water quality impacts are included in the proposal at 50 FR 47999-47800 and in the development documents and will not be repeated here.

I. Best Management Practices

Section 304(3) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process. The Administrator may incorporate BMPs as conditions in NPDES permits. The development document for the proposed rule discussed BMPs which the permitting authority could follow to minimize storm water runoff, groundwater infiltration and seepage at placer mine sites. Suggested BMPs included construction of settling ponds with adequate drainage and storm water diversions around the pond, and recontouring of surface mines and waste piles to decrease erosion and prevent infiltration of water into the mine area.

J. Upset and Bypass Provisions

An upset is an unintentional violation of effluent limits for reasons beyond the permittee's control. A bypass is an intentional act of noncompliance in emergency situations. EPA's general NPDES permit regulations provide that upset and bypass provisions will be incorporated into NPDES permits. See the proposal for a more complete statement on this matter. For the placer mining industry, EPA proposed that the storm exemption would supersede the general upset and bypass provisions with respect to precipitation events. In all other events, EPA proposed that the general upset and bypass regulations would apply.

K. Relation to NPDES Permits

After the Agency promulgates final effluent guideline limitations, those standards will be incorporated into all NPDES permits. However, the permitting authority must incorporate additional requirements on a case-by-case basis to carry out the purposes of the CWA, meet state water quality standards or other federal or state requirements.

III. Additional Data Gathering Efforts

A. Need For Additional Data

In response to comments the Agency received on the proposed regulation published November 20, 1985, and on a notice of February 14, 1986, the Agency recognized that additional data was necessary to promulgate a final regulation for this industry.

In the 1985 Supplemental Appropriations Act, Congress directed EPA to utilize existing research and development funds to study the economic and technological impacts of the proposed effluent limitations guidelines on the placer mining industry. Specifically, Congress directed the Agency to examine the revenue and operating costs of existing mines, and to evaluate mining and processing techniques, settleable solids tests, and the efficiency of increased water recycle rates.

During 1986, EPA and its contractors conducted several studies to expand the geographical range of data collection efforts and evaluate the technologies suitable for treating placer mining wastewater. These studies included: Conducting sampling and analyses at eight mines in mining districts not previously visited by the Agency; examining the use of chemical flocculants to enhance solids settling; determining the presence of metals in placer wastewater and the bioavailability of arsenic and mercury; evaluating effects on fine gold recovery of recycled wastewater containing high TSS concentrations; working with the U.S. Bureau of Mines pilot plant study to evaluate flocculant-aided solids separation from process water using polyethylene oxide (PEO) and inclined screens; performing a joint EPA/Alaska Department of Environmental Conservation low-cost pilot plant treatment system demonstration study; conducting additional flocculation studies at two mines; and evaluating the Alaska Innovative Grant Program projects having potential for pollution control.

These studies and other data-gathering efforts are discussed in greater detail below.

B. Studies Relating to Presence of Metals in Placer Mine Wastewater and to Model Technologies Being Considered by the Agency

1. 1986 Field Study

During the 1986 mining season, EPA contractors visited eight mines in geographical areas previously not studied by EPA. A detailed description of the study is available from EPA in "1986 Alaskan Placer Mining Study—Field Testing Program Report." The purpose of the field study was two-fold. First, the study sought to expand EPA's existing data base on conditions in the placer mining industry. The mines were selected because they were located in areas not previously visited by EPA contractors. The Agency reviewed existing conditions at the mines by measuring flow rates, taking sludge samples, and examining plant layout. Second, the study sought to supplement the Agency's data on the effectiveness of settling and chemical addition at removing solids from ore processing discharges. Effluent quality was tested after settling for various detention times, with and without chemical addition. Samples were collected of influent water, in-plant process water, effluent

water, and recycle processed water. The study analyzed the samples for settleable solids (SS), total suspended solids (TSS), turbidity, temperature, pH, and metals. Sludge samples were collected from the settling pond at each of the locations to determine compaction rates and metals content.

Chemical treatment of wastewater using various polymers was evaluated through the use of jar tests at each site. Jar tests are conducted by taking a fresh sample of wastewater and transferring it into beakers. The wastewater was then mixed while flocculant aid was added. This method was used to determine the best polymer and optimum polymer dosage. The optimum polymer and dosage were then tested in 8-inch diameter clear plastic settling tubes. The results of these tests, described in the Field Testing Report, confirmed the conclusions of similar studies conducted previously by EPA. There was a considerable decrease in contaminant levels when settling was aided by the use of chemicals.

2. Additional Flocculant Study

EPA also conducted tests at two different mine sites ("1986 Placer Mining Full-Scale Field Investigations Chemical Treatment," November 7, 1986) to determine the effectiveness of a representative commercially-available polymer on a portion of the wastewater from each site. The study sought to examine whether the results of the full scale field tests would confirm the settling test data obtained during the 1984, 1985 and 1986 field studies. A flow rate of approximately 100 gallons per minute (GPM) was used. Jar tests had previously been conducted at these two mines to determine optimum dosage. Following treatment, the pond discharge had no detectable SS and significantly reduced TSS and turbidity. These levels were consistent with those found in the earlier jar tests and large tube settling tests. The results indicate that the settling rate data generated by these two test methods can be extrapolated to predict results in full-scale operations.

While conducting these flocculant studies, EPA became aware of a new type of chemical feed system that, in certain cases, might be an economical method of treating wastewater. The system involves suspending the polymer in gel form (known as a "gel log") in the middle of the flow stream. As the wastewater flows over the log, the polymer dissolves in the wastewater with a resultant reduction of SS, TSS and turbidity after settling. This treatment system may be suitable for certain mines, depending on the configuration of the particular site. Some information on this treatment system is contained in a report describing a test performed at the Usibelli coal mine in Alaska ("Gel Log Flocculants Treat Drainage," *Coal Age*, September 1982). This report is included in the record of this rulemaking. EPA intends to obtain additional information on the economic, environmental and technological viability of this chemical treatment technique.

3. Fine Gold Recovery Following Process Water Recycling

A number of miners have commented that recycling water with a high solids content may reduce the amount of fine gold recovery. Although no supporting evidence for this contention has been submitted, the Agency undertook further study to evaluate this potential problem with recycle technology. The study is described in the 1986 report, "Evaluation of the Effects of Suspended Solids on Riffle Packing and Fine Gold Recovery in a Pilot Scale Sluice," by Peterson, Tsigonis, and Nichols.

During the 1986 mining season, a pilot scale facility was erected at an existing placer mine on Fish Creek, Alaska. Clear water was used for one test and recycled process water with various TSS concentrations was used for four tests. Known quantities of gold of known particle size (referred to as "mesh size") were added to the pay dirt during each of the tests. A system of "secondary recovery" was installed to measure the gold that had not been recovered in the sluice box. This study used recycled wastewater that was 6 to 25 times higher in TSS than the wastewater normally used for recycling at actual placer mines.

The results indicated a very small loss of fine gold at all TSS levels prior to "riffle packing." Riffles are ridges in the sluice box which trap gold particles as water and pay dirt flow through the sluice box. Peterson found that gold loss occurred when the riffles became packed with solids. At influent TSS levels up to 285,000 mg/1, riffle packing began occurring approximately 5 hours after operations began. As long as operations included periodic cleanup of the riffles to prevent packing, significant loss of fine gold did not occur. The Peterson study supports EPA's earlier conclusion that use of recycle wastewater will not cause any significant reduction in the rate of fine gold recovery.

4. Metals Analysis

The wastewater and sludges from the mines visited by the EPA and the Bureau of Mines in 1986 were analyzed for the presence of 27 different metals including the 13 priority pollutant metals. The additional metals were analyzed to determine their levels in placer mining wastewater. It was expected that several of the 27 metals would be found since they are present in the soil being disturbed by the mining operation. It was also expected that these same metals would be removed from the wastewater with the solid materials being removed by treatment technologies. The data collected indicate that the metals found are associated with the soil particles and tend to be removed when the solids are removed.

5. Metals Bioavailability Analyses

The 1986 field study duplicated the sampling and analytical measurements taken during the 1983 and 1984 mining seasons, except that the 1986 data were collected at eight mines in mining districts not previously sampled by the Agency. In addition to the total metals analyses for the 27 metals discussed in Section B.4, above, special analyses were performed for arsenic and mercury. These metals were identified as being present in certain placer mine wastewaters and EPA undertook this study to evaluate the potential environmental harm because of their presence.

Additional analyses of arsenic and mercury were conducted using EPA Method 200.1—Determination of Acid Soluble Metals. This analysis is designed to provide an empirical measurement of the bioavailability of the metals found in the environment. The procedure required the sample to be acidified to a pH of 1.75 and held for 16 hours to simulate a worst case environmental condition. After the holding time, the solids were removed and the metals content of the solution analyzed by standard EPA methods. Certain shortcomings of this method were reported. Therefore, parallel validation study of the use of this acid-soluble metal method was performed to ensure that it was appropriate for the placer mining waters containing arsenic and mercury. It was concluded from the validation study that the results obtained generally support the conclusion that a reproducible value can be obtained for arsenic and mercury at high concentrations by employing the procedures outlined in the Agency methodology. However, significant losses of mercury occurs in the analysis and the method is not valid for mercury at low concentrations.

The 1986 metals data indicate that when the wastewater contained significant levels of arsenic and

mercury, the removal of solids also tended to remove these metals as well. In several locations, simple settling was effective in removing both solids and the associated metals; in others, chemical treatment was needed in addition to simple settling to achieve the removal of both the solids and the associated arsenic and mercury. The use of the acid-soluble metals test described above detected no solubilization of arsenic. The arsenic values found in these tests were also below water quality criteria for protection of aquatic life, as well as the EPA drinking water standard (MCL). The levels of mercury found were too low to give conclusive indication of solubilization. The levels of mercury found in the wastewater after solids removal were at or near the analytical detection limit.

C. Other Studies

The following studies conducted by EPA, the U.S. Bureau of Mines, and the State of Alaska, addressed technologies which can effectively treat placer mining wastewater at some sites. Because these technologies may only be feasible on a site-by-site basis, the Agency is not considering adopting them as model technologies for the effluent limitations guidelines and standards.

1. Innovative Grant Programs

Alaska Senate Bill 461 authorized grant funds to support research by placer miners for fine gold recovery, reduction in process water use, improvement in mine effluent quality, and waste disposal. Thirty grants were awarded in 1985 to 20 different miners for work to be completed in the 1985 and 1986 mining seasons. Twelve reports representing 17 individual grants currently are available. Some reports provide results from studies on recycling, chemical additives, tundra filters, and filter dams. Two of these technologies, tundra filter and filter dams, were not considered in the proposed effluent limitations guidelines or discussed in the preamble to the proposal. The Agency believes that, for certain sites, these technologies could be used to meet guideline limitations.

Filter dams have a designed porosity that allows flow of wastewater through the dam while filtering suspended solids. Typically, they are constructed from available materials such as tailings from the existing or a previous mining operation. The only cost associated with the technology is construction and maintenance of the dam itself. Testing has shown that for mines where tailings are available, and the topography permits construction, filter dams can provide effective treatment of wastewater. Thus, benefits provided would be site specific and related to operating conditions at a particular mine.

In four systems tested under the ADEC grant program, settleable solids were reduced by 94 to 99 percent, and turbidity was reduced from 39 to 99 percent.

Tundra filtration is land application of wastewater onto tundra. Normally the earth beneath the tundra is frozen, thus the water cannot leach into the ground. The available hydraulic gradient, as determined by the slope of the land, will force the water to seep through the saturated tundra removing (trapping) the fine, non-settleable solids from the wastewater. This trapped material builds a "fine filter cake" in the tundra. Long-term effects of this build-up have not been assessed at this time. One short test run under the ADEC Innovative Grant Program indicated that a rather extensive area of tundra would be required for a full season of application of wastewater. A five day test (on a very limited area) provided 80 percent or greater efficiency in turbidity removal from the wastewater. This removal rate dropped dramatically during the test so that the efficiency for the last two days of the test was only 24 percent.

This test plus another run under the ADEC grant program (which was also incomplete) demonstrated the extreme site specificity of this type of pollution control. A number of questions are unanswered at this time, i.e., costs for various quantities and qualities of wastewater, tundra area and hydraulic gradient required and long-term effects on the tundra.

2. U.S. Bureau of Mines Research

During the 1986 mining season, the U.S. Bureau of Mines operated a mobile pilot plant and laboratory at four Alaskan placer mines. EPA provided analytical capabilities for chemical analyses through a contract laboratory, and onsite assistance with equipment and engineering support. The results of the study are contained in "Dewatering Alaska Placer Effluents with PEO: Field Test Results," by Smelley and Scheiner.

The study sought to test the effectiveness of polyethylene oxide (PEO), a chemical flocculant, in reducing the amount of TSS in placer mine wastewater. At the pilot plant, wastewater was first combined with PEO, and the resulting mixture was pumped over inclined screens of various mesh sizes that separated out the larger solids. The treated liquid passed through the screen into a settling pond.

The study varied several conditions in the treatment process to achieve the optimum results. Soil chemistry, solids loading in the wastewater, PEO dosage, mixing time, turbulence during mixing, and screen loading each affected the quality of the effluent and the capture efficiency of the screen.

Treatment with PEO dramatically reduced the TSS and turbidity of the wastewater. The amount of PEO required for treatment increased with the level of solids in the influent. The cost of operating the process will depend on the dosage required at specific sites.

The study found that over 90 percent of the solids could be removed from the wastewater. Dewatered sludge had a solids content of 30 percent and could be handled by the earth-moving equipment normally found at placer mining operations. This technology reduces the cost of maintaining the settling pond because the process wastewater contains fewer solids.

3. The "Alaska Model" PEO System

EPA, with assistance from the Alaska Department of Environmental Conservation, conducted additional testing using PEO with a low cost treatment system fabricated in Alaska ("Alaska Model PEO Report—1986"). The U.S. Bureau of Mines pilot plant had been constructed to conduct research and to develop the treatment process. The "Alaska Model" treatment system was constructed to examine whether a low cost version of the Bureau of Mines pilot plant system could generate effluent with a similar quality. The "Alaska Model" study was maintained and operated similarly to the Bureau of Mines study.

The "Alaska Model" modified the Bureau's system to reduce capital and operating costs. Design changes allowed pumps to be replaced by gravity flow. Also, stainless steel screen used in the research study was replaced by less expensive window screen. The "Alaska Model" produced a wastewater, following screening, that was similar in SS, TSS, and turbidity to that of the Bureau's research program.

Some miners raised questions about the possible toxicity of PEO when used as a wastewater treatment chemical. Similar products are used in wastewater treatment in numerous industries, including the food processing industry. Manufacturers have tested these materials for possible toxicity. However, PEO had not yet been tested in the placer mining industry so the Agency conducted a study in its Region X laboratory to develop the necessary

data. The internal EPA report, "Acute Toxicity of Commercial Polyethylene Oxides to Representative Fresh Water Organisms," January 30, 1987, shows that PEO has the same low level of toxicity as similar commercial products. The Agency believes that the use of domestically manufactured PEO as a flocculant in the treatment of placer mining wastewater will not pose any significant environmental threat.

IV. Data Analysis and Regulatory Options

Based on the new data and comments that the Agency has received since the effluent limitations guidelines were proposed, the Agency is considering adopting several new regulatory options. First, EPA is considering revising the subcategorization scheme that was presented in the notice of proposed rulemaking. Second, the Agency is considering adopting new BPT, BCT, BAT limitations and new source performance standards. EPA solicits comment on all the options which the Agency discusses below.

A. Subcategorization

In the notice of proposed rulemaking, the Agency concluded that placer mines were most appropriately categorized on the basis of the size of the mining operation. EPA continues to believe that mine size should be the basis for subcategorizing the industry. However, the Agency is considering revising the mine size categories that were presented in the proposal. These changes are based on the results of EPA's revised analysis of the economic impacts of regulating the placer mining industry (see section V). The following tables summarize the previous subcategories and the new subcategories being considered by the Agency.

TABLE IV-1.—SUBCATEGORY REVISIONS

Mine type	Size
Proposal	
(1) Recreational assessment.	Less than 20 yds³/day.
(2) Open-cut	Greater than 20; up to 500 yds³/day.
(3) Open-cut	Greater than 500 yds³/day.
(4) Dredges	Greater than 4,000 yds³/day.
Revisions	
(1) Open-cut	Less than 1,500 yds³/year.
(2) Open-cut	Greater than 1,500; up to 70,000 yds³/year.
(3) Open-cut	Greater than 70,000 yds³/year; up to 230,000 yds³/year.
(4) Open-cut	Greater than 230,000 yds³/year.
(5) Dredges	All sizes.

As can be seen from the table, the Agency is considering measuring mine size based on yearly, instead of daily, production volumes. Miners stated in comments that it was not appropriate to size mining operations in terms of daily output. EPA agrees. Engineering designs of mine and plant capacity are generally premised on estimates of annual production rates. Also, daily rates do not accurately portray real production volumes since equipment can break down for hours or days, causing ore processing to shut down completely. The annual average takes day-to-day variations into account by assuming that the mines are operating at 83 percent of capacity. Finally, looking to annual production volumes is appropriate because miners rely on annual production estimates to forecast revenues and expenditures. EPA solicits comment on the use of annual production volume as the basis for size subcategorization.

EPA notes that its economic impact analysis continues to measure the size of dredges based on daily production volumes. Dredges do not suffer from the production disruptions which characterize open-cut mines because they keep sufficient maintenance and repair supplies on-site to insure that the mine can operate 24 hours per day during the mining season. Therefore, daily production rates continue to be a valid measure of dredge mine size. The Agency solicits comment on this conclusion.

To compare the old and new size categories for open-cut mines, yearly production rates can be translated into daily production volumes based on Agency assumptions about the length of the operating season. Those assumptions are described in the economic analysis support document contained in the record for this notice. Applying the Agency's assumptions, 1,500 yds³/year equals 20 yds³/day. The new subcategory for small, open-cut mines contains mines processing up to 70,000 yds³/year, which is equivalent to approximately 930 yds³/day. This figure is larger than the 500 yds³/day cut-off used in the notice of proposed rulemaking. Therefore, the new subcategorization scheme would increase the number of mines in the small, open-cut subcategory. The Agency is considering adopting a new subcategory for medium-sized mines, ranging from 70,000 to 230,000 yds³/year, which would range from approximately 930 to 3,060 yds³/day. The large mine subcategory would correspond to mines processing greater than 3,060 yds³/day.

The Agency has not proposed to establish different BPT limitations for different sizes of open-cut mines. As in the proposal, those limits for all open-cut mines are based on the use of simple settling. However, subcategorization might be necessary in setting BCT/BAT/NSPS limitations.

In the notice of proposed rulemaking, the Agency established a separate subcategory for "large dredges", those processing more than 4,000 yds³/day. At that time, the Agency was unaware of any dredges which operated below this production level. During 1986 field visits to Alaska, the Agency discovered dredges which processed less than 4,000 yds³/day. Therefore, the new dredge subcategory includes dredges of all sizes. As was stated in the notice of proposed rulemaking, a separate subcategory was necessary for dredges because this type of mine differed substantially from open-cut mines. Since dredges conduct mining while floating in a pond, and therefore always recycle their process water, the Agency set all guidelines limitations and standards based on recycling.

To arrive at the subcategories discussed above, EPA analyzed the impacts of installing pollution control technologies on many different mine sizes. For example, within the small, open-cut category, the Agency used the model mine analysis described in section V to measure costs and impacts on mines processing 35,000, 50,000, 60,000 and 70,000 yds³/year. Similar increments were utilized in analyzing medium and large open-cut mines. Subject to comments received by the Agency, the final rule might modify the subcategories presented in this notice based on any of the size increments which the Agency used in its economic analysis. Therefore, the Agency solicits comment not only on the subcategories presented above, but also on alternative cut-offs between mine size categories which are presented in the Agency's economic support document and summarized in section V of this notice.

As a result of our data gathering efforts EPA has determined that the gold placer mining industry in Alaska is

sufficiently similar to the industry in the lower 48 States to propose a national wastewater effluent guideline covering the entire industry. The data supporting this conclusion appears in the record and the Agency solicits comment on this issue.

B. Effluent Limitations Guidelines and Standards for BPT, BCT, BAT and NSPS

In light of new economic and technical data which EPA has gathered since it proposed effluent limitations guidelines and standards for the placer mining industry, the Agency is considering revising those limitations. The following sections discuss regulatory alternatives for each subcategory for BPT, BCT, BAT and NSPS. EPA solicits comment on all the regulatory options mentioned below.

1. Wastewater Treatment Technologies

The proposed effluent limitations guidelines and standards were based on two technologies: 100% recycling and simple settling. While the Agency considered chemical treatment as an option, EPA declined to propose it as a model technology pending further study of its cost and effectiveness.

EPA's field studies conducted during the past year demonstrate that chemically aided settling can considerably reduce the amount of solids in placer mining wastewater. At this time, the Agency is not aware of placer mines which are treating wastewater with chemical flocculants. Nonetheless, bench-scale and pilot plant operations conducted by the Agency during the 1986 mining season indicate that chemical treatment might be a technically feasible pollution control technology that can be utilized by placer mines. Chemical flocculants are also commonly used to reduce the solids content in wastewater from sewage treatment plants. In addition, some mining operations outside the placer mining subcategory have used chemicals to treat solids in wastewater. The Agency's economic analysis of the cost of chemical treatment also indicate that this technology may be economically achievable for certain mine subcategories. The following sections of this notice discuss chemical treatment as a possible model technology for BCT and BAT limitation and for new source performance standards for medium and large open-cut mines and dredges. The Agency solicits comment on whether adopting chemical treatment as a model technology for these mine subcategories would be appropriate.

The Agency is not considering chemical treatment as a model BCT/BAT/NSPS technology for the small mine subcategory because available information indicates that chemical treatment is not technically feasible for small mines. Operating a chemical treatment system requires labor which is not generally available at small mines operated by relatively few workers. The baseline model mine devised by the Agency to represent small mines consists of only three operators (see discussion in section V). It might be impossible for a mine of this size to continue mining and operate a chemical treatment system. The Agency solicits comment on the technical feasibility of chemical treatment for small, open-cut mines.

EPA is considering chemical treatment as a technology which is used in conjunction with recycling and simple settling. Under the proposed regulation, mines which recycle, and thus have zero discharge of process wastewater, would have been allowed to discharge excess water resulting from groundwater infiltration and mine drainage. The proposed regulation would have required the discharge of excess water to meet limitations based on the use of settling ponds. Chemical treatment discussed below would involve chemical treatment of that excess water. EPA is considering limitations for excess water based on the levels of TSS and SS which can be achieved after three hours of chemically-aided settling. In the discussion below, this technology is referred to as "recycling/chemical treatment."

The Agency is aware of several other technologies which miners might wish to employ to meet final effluent limitations guidelines and standards. These technologies include PEO, filter dams, tundra filters, and gel logs. Each of these is described in section III of this notice. EPA does not consider these as possible model technologies, because they generally are available on a site-specific basis only. However, they might be a cost-effective means for certain miners to meet applicable standards. Tundra filtration, however, has only been tested in a short test run by Alaska's Innovative Grant Program. EPA is not yet certain of the long-term environmental effects of treating the tundra in this manner. In addition, constructing channels through the tundra, as required by this technology, may involve a discharge of dredged or fill material regulated under Section 404 of the Clean Water Act. The Agency solicits any data or information on these questions.

Section 404 of the Clean Water Act regulates discharges of dredged or fill material into waters of the United States. Placer mining may involve both sections 402 and 404 discharges. A memorandum of agreement between EPA and the Department of Army, published in the **Federal Register** on March 14, 1986, clarifies how discharges of solid and semi-solid wastes into waters of the U.S. are regulated under the Clean Water Act. That agreement lists process wastes from placer mining operations as regulated under section 402. These are the wastes that are addressed in this notice of rulemaking.

Other discharges from placer mining may be regulated under section 404. Any material dredged from waters of the United States, including regulated wetlands, and redeposited into waters of the United States is dredged material subject to regulation under section 404. Dredged material may include material moved by equipment other than that traditionally associated with dredging operations; for example, a bulldozer operating in waters of the U.S. may dredge and redeposit material and constitute a discharge of dredged material.

Placer mining may also involve discharges of fill material. For example, material discharged into waters of the U.S. to construct dikes, berms, and levees for settling ponds is regulated under section 404. Regulations applicable to section 404 discharges are in 40 CFR Parts 230 through 233, and 33 CFR Parts 320 through 330. The Agency solicits any data or information on this issue.

The following tables summarize the subcategories and BPT, BCT, BAT limitations and new source performance standards that were previously proposed by the Agency, and the possible revisions presented in this notice. The model technology underlying the limitations are set in parentheses. Numerical limits are not to be exceeded in any one sample. The Agency might split the dredges by size. Comments are solicited on this approach.

TABLE IV-2—PROPOSAL

Subcategory	BPT	BCT	BAT	NSPS-BAT
<20 yds³/day	No limitations	None	None	
>20 yds³/day to 500 yds³/day all mines.	0.2 ml/l SS, 2,000 mg/l TSS (Simple settling).	BCT-BPT	BAT-BCT-BPT	
All exc. large dredges > 4,000 yds³/day.	Same as above	Process water—no discharge (recycling) excess water—0.2 ml/l SS 2,000 mg/l TSS (simple settling).	BAT-ACT	
Dredges > 4,000 yds³/day.	Process water—no discharge (recycling) excess water—0.2 ml/l SS 2,000 mg/l TSS (simple settling).	BCT-BPT	BAT-BCT-BPT	

TABLE IV-2—POSSIBLE REVISIONS

Subcategory	BPT	BCT	BAT	NSPS
<1,500 yds³/yr.	No limitations	None	None	None.
> 1,500 < 70,000 yds³/yr. (small open-cut).	0.2 ml/l SS (simple settling).	BCT-BPT	Process water—no discharge (recycling) excess water—0.2 ml/l SS (simple settling).	NSPS-BAT.
70,000-230,000 yds³/yr. (medium, open-cut).	0.2 ml/l SS (simple settling).	Process water-no discharge (recycling) excess water—*either* 115 mg/l TSS (chemical treatment) *or* no limitation (simple settling).	Process water—no discharge (recycling) excess water—*either* 0.2 ml/l SS (simple setting *or* 0.2 ml/l SS and 115 mg/l TSS (chem. treatment).	Same options as at BAT.
> 230,000 yds³/yr. (large, open-cut).	0.2 ml/l SS (simple settling).	Same options as for medium, open-cut mines.	Same	Same.
Dredges	No discharge (recycling) excess water—0.2 ml/l SS (simple settling).	Same options as for medium and large open-cut mines.	Same	Same.

2. Best Practicable Technology (BPT)

The proposed effluent limitations guidelines for BPT for open-cut mines were based on the use of settling ponds. Based on that technology, the Agency proposed limitations of 0.2 ml/l for settleable solids (SS) and 2,000 mg/l for total suspended solids (TSS). For large dredges, the proposed regulation recommended 100% recycling as the model BPT technology. The Agency continues to believe these are the appropriate model BPT technologies for these subcategories.

Under the Clean Water Act, the Agency must consider the following factors in choosing model BPT technology: Total cost of application of the technology in relation to the effluent reduction benefits, the age of the equipment and facilities involved, the process employed, nonwater quality environmental impacts (including energy requirements), and other factors as the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performance of plants of various ages, sizes, process, or other common characteristics.

Simple settling technology is presently employed throughout the placer mining industry, and EPA's data indicates that the use of settling ponds by open-cut mines substantially reduces the solids content in mine effluent. The Agency considered adopting recycling and recycling/chemical treatment as model BPT technologies. While some open-cut mines presently recycle wastewater in specific circumstances such as water shortage, the Agency does not believe that the practice can be considered the "average of the best" mines. The Agency feels that recycling is more appropriate as a model BAT/BCT technology. Similarly, the Agency is not considering adopting chemical treatment as the basis for BPT limitations. Chemical treatment is not presently practiced in the placer mining subcategory, and EPA believes that it might be more appropriate as a model BCT/BAT technology for certain mines.

During the 1986 mining season, EPA conducted testing at several sites to evaluate whether the proposed BPT limitations were achievable with the use of settling ponds. EPA took one settleable solids sample at six open-cut mines visited during the 1986 season. In five of the samples, SS levels were reduced to at or below 0.2 ml/l after three hours of settling. The sixth mine employed a hydraulic operation where settling is expected to take longer. After four hours of settling, the SS level in the sample from this mine measured below 0.2 ml/l. As EPA discussed in the first Notice of Availability (51 FR 5563), 0.2 ml/l is the method detection limit (MDL) for settleable solids. The Agency believes that the data collected during the past mining season confirm that SS limitations based on simple settling can be set at 0.2 ml/l.

For the purpose of evaluating the costs of simple settling technology, EPA assumed in the notice of proposed rulemaking that ponds would have to be designed to retain wastewater for six hours in order to meet the proposed settleable solids limitation. Field tests had shown that SS were reduced to

below 0.2 ml/l within three hours under quiescent conditions. Taking into account the turbulence of actual operating conditions, EPA believed that ponds should be large enough to hold process wastewater for six hours. Based on recent field observations, EPA believes that cost estimates should be based on ponds designed to retain wastewater for four hours. During the 1986 field visits, EPA found that mines consistently met the proposed limit with smaller ponds. As a result, the Costing Study contained in the record for this notice has reduced settling pond size for the purpose of estimating the costs of that technology. This change does not affect the SS limitation adopted by the Agency, since both four and six-hour ponds reduce SS levels to below the MDL.

The proposed effluent guidelines set a limit on TSS of 2,000 mg/l for discharges from placer mines using simple settling technology. After considering comments, new information, and reevaluating the data obtained before the effluent guidelines were proposed, the Agency is considering deleting the TSS limitation, and establishing BPT limitations for settleable solids only. Commenters have pointed out that the settling characteristics of pond effluent vary dramatically depending on the soil type of a particular site. With certain soil types, particulate matter settles out quickly and thoroughly. At other mines, particles remain suspended no matter how long the wastewater is allowed to settle. Therefore, it is possible that some mines would not be able to meet a TSS limitation even if they were operating their settling ponds at maximum efficiency.

Data collected by EPA confirms this problem. In its 1986 field testing program, the Agency found that TSS levels after six hours of settling ranged from 28 to 2,920 mg/l for open-cut mines. Test data collected in 1984 showed TSS levels ranging from 1,505 to 9,660 mg/l for six-hour settling periods. The latter tests showed similar variability even after 24 hours of settling. Furthermore, the Agency does not believe that it can address this problem by subcategorizing placer mining on the basis of geography. Soil characteristics vary not only from site to site, but within mine sites as well. In some cases, moving as little as several feet can expose different kinds of soil, and therefore change the settling characteristics of mine effluent.

It appears, then, that simple settling does not consistently control TSS in placer mining effluent. The Agency's data indicates that chemical treatment of wastewater is necessary to reduce TSS to consistently low levels. Therefore, the Agency is considering not setting a BPT limitation for TSS.

Similarly, data collected by the Agency indicates that where the pollutants arsenic and mercury are present, they are associated with the suspended solids in mine effluent. Depending on the characteristics of the soil at a site, simple settling will remove varying amounts of those pollutants. Therefore, simple settling does not consistently control the levels of arsenic and mercury. As a result, it is impossible for the Agency to set nationally applicable, uniform standards for arsenic and mercury based on the model BPT technology. The Agency believes, however, that these pollutants are controlled adequately by the model technologies which the Agency is considering for BCT and BAT.

3. Best Conventional Pollutant Control Technology

When EPA proposed effluent limitations guidelines and standards for the placer mining industry in November of 1985, the Agency had not yet issued a final BCT methodology. In the preamble to the proposed placer mining rule, EPA stated that it would evaluate the various technology options for placer mining by applying the final BCT methodology (50 FR 47995). The findings of cost-reasonableness in the placer mining proposal were based on the previously proposed BCT cost test and on a qualitative judgment that the costs were "sufficiently low relative to removals that they would pass any 'cost-reasonable' test that may be promulgated."

On July 9, 1986, EPA issued final BCT regulations for several industrial categories and established the Agency's general methodology for determining the reasonableness of BCT effluent limitations (51 FR 24974). The methodology consists of a two-part cost test to evaluate the technology options being considered as a basis for BCT effluent limitations. The first part of the BCT cost test, called the POTW test, compares the industry's cost per pound of conventional pollutant removed by BCT to a benchmark value, which is based on an analogous cost for publicly owned treatment works. The second part, called the industry cost-effectiveness test, compares the cost per pound removed by the BCT candidate technology to the cost per pound removed by BPT. The result of the second test, as in the first test, is compared to a benchmark value based on analogous POTW costs.

In the preamble to the regulation establishing the final BCT methodology, the Agency stated its intentions with respect to treatment of "de minimis" BCT cost-per-pound values in calculating the cost tests (51 FR 24976). EPA specifically stated that BCT cost-per-pound values of less than one cent would be treated as de minimis values that are inherently cost reasonable. EPA noted that this approach best met Congressional intent concerning the concept of cost reasonableness underlying the second BCT test. EPA further indicated (Section II.A.4 of the BCT preamble) that, in deriving BCT cost test results for certain industries, there may be instances where strict adherence to the benchmarks would undermine Congressional intent on cost-reasonableness. In these instances, EPA indicated an intent to develop appropriate procedures to evaluate cost reasonableness on a basis more appropriate to the specific industry in question.

The proposed BCT limitations for the placer mining industry were based on two technologies. For mines processing greater than 500 yds^3/day and large dredges, the Agency established BCT limitations based on 100% recycle of process wastewater. For mines processing less than 500 yds^3/day, the limitations were based on simple settling. EPA determined that recycling was not economically achievable for the smaller mine subcategory.

Based on additional technical and economic data gathering and analysis, the Agency is considering changing the technology bases of BCT limitations for certain mine sizes. EPA evaluated the "cost reasonableness" of simple settling, recycling and recycling/chemical treatment in terms of the cost per pound of solid material removed, utilizing the baseline model mines structured to represent the industry in Alaska and the lower 48 states (see discussion in Section V). Pollutant removals achieved by these technologies were determined using data from sampling and analysis at existing facilities, together with data from treatability studies performed by the Agency.

As was mentioned above, the Agency believes that recycling/chemical treatment is not technically feasible for small, open-cut mines. Based on the economic impact analysis summarized in section V of this notice, the Agency found that recycling was achievable for this subcategory and applied the two-part BCT cost test. Under the POTW cost test, EPA determined that the cost of upgrading from simple settling to recycling was .025 dollars per pound of solids removed, below the POTW benchmark value of .46 dollars/pound.

Thus, recycling for the small mines passed the POTW test. However, applying the industry cost-effectiveness test, the Agency determined that the value of 35.2 exceeded the applicable benchmark value of 1.29. Accordingly, the Agency is considering basing BCT limitations for small mines on simple settling. For small mines, then, BCT would equal BPT.

As discussed in the previous section of this notice, the Agency is considering adopting BPT limitations exclusively for settleable solids, a non-conventional pollutant. The Agency has determined that TSS, a conventional pollutant, is not controlled by simple settling technology. Total suspended solids can only be controlled through chemical treatment of mine wastewater, which is not technically feasible for small mines, or recycling, which fails the BCT cost test. For small open-cut mines, then, the Agency has not identified a BCT technology to control TSS which is technically feasible and cost reasonable. Thus, while TSS is a pollutant of concern, the Agency may adopt a final rule which does not set BCT limitations for TSS for the small, open-cut subcategory. Other conventional pollutants, including oil, grease, biological oxygen demand, pH and fecal chloroform, are not present in placer mine wastewater. Therefore, the Agency may promulgate a final regulation which does not set any BCT limitations for open-cut mines processing less than 70,000 yds^3/year.

For medium and large open-cut mines, the Agency applied the BCT cost test for recycling and recycling/chemical treatment. Because dredges are already recycling at BPT, the Agency calculated the BCT cost test for recycling/chemical treatment for this subcategory. With regard to recycling/chemical treatment, the first BCT test found that the costs of upgrading from simple settling to recycling/chemical treatment for medium and large open-cut mines were .013 and .008 dollars/pound. The costs for small and large dredges to upgrade from recycling to recycling/chemical treatment were .003 and .002 dollars/pound. These costs are well below the applicable benchmark value of .46 dollars/pound. Furthermore, these values are so low that they might be considered "de minimis" by the Agency. As the Agency stated in the preamble to the final BCT methodology, incremental removal costs of less than one cent under the first BCT test indicate that the technology option is so cost-reasonable that it comports with the Congressional intent underlying the BCT cost test. For large open-cut mines and dredges, incremental removal costs are all under one cent; for medium open-cut mines, those costs are slightly greater than a penny. Nonetheless, the incremental removal costs for medium-sized mines are sufficiently close to one cent that they might be considered de minimis. Applying the second BCT test, the Agency found that the values for small and large dredges (.34 and .35) were less than the applicable benchmark value of 1.29. Therefore, the dredge subcategory passes both BCT cost tests. For medium and large open-cut mines, the values of 27.5 and 24.4 exceeded the applicable benchmark. However, since removal costs under the first test for large open-cut mines are below one cent, EPA believes that recycling/chemical treatment is a cost-reasonable technology which might be an appropriate model BCT technology for this subcategory. This conclusion would be consistent with the de minimis discussion in the preamble to the BCT methodology. As for medium open-cut mines, EPA believes that the results of the first cost tests might justify adopting chemical treatment as the model BCT technology. The Agency solicits comment on whether the incremental removal costs for medium-sized mines should be considered de minimis.

Applying the first cost test for recycling technology, the Agency found that removal costs for medium and large open-cut mines were .009 dollars/pound, less than one cent. As with recycling/chemical treatment, the values under the second test exceeded the benchmarks of 1.29. (Medium and large open-cut=24.3, 20.2). Nevertheless, for the reasons cited above, the Agency believes that recycling might be an appropriate model technology for these subcategories.

Based on recycling technology, BCT limitations would require zero discharge of process wastewater. For medium and large open-cut mines and dredges, the Agency is considering two technologies for treating excess water due to groundwater infiltration and mine drainage: Simple settling and chemical treatment. As explained previously, simple settling technology does not consistently control TSS in placer mine wastewater. Therefore, if the Agency determines that simple settling is the appropriate BCT technology for a subcategory to treat excess water, there would not be a conventional pollutant to be limited at BCT. The final rule might not set BCT limitations for excess water if simple settling is the appropriate technology.

If the final rule adopts chemical treatment as the appropriate technology for treating excess water, the Agency is considering adopting a TSS limitation of 115 mg/l as a value not to be exceeded in any one sample. This value was determined on the basis of a statistical analysis of TSS data collected in a number of chemically-aided settling tests conducted in Alaska during the 1986 mining season. Tests at six different mines were used to assess the settling characteristics of pollutants in wastewater utilizing large diameter settling tubes. Another test was conducted under "full flow" conditions, with flow rates varying between 47 and 194 gallons per minute. For each mine site, the Agency first determined the optimal polymer and polymer dosage. This was necessary because soil types and other factors vary from site-to-site, making certain polymers more effective than others. This is consistent with long-standing Agency procedure for utilizing chemical flocculant to remove solids from wastewater (see "Process Design Manual for Suspended Solids Removal" in the record for this notice). The Agency aggregated these data for the purpose of the statistical analysis used to determine the TSS effluent limitation of 115 mg/l. That is, TSS data from different mines employing different chemicals and dosage rates and measurement methods were combined to determine the overall TSS limitation value. The Agency also analyzed the full flow data without combining the static tube test data and the resultant TSS value was 117 mg/l. This TSS number was very close to the combined data TSS level of 115 mg/l. (For further discussion of the data which was used in deriving a TSS number, see the document, "Statistical Analysis of Data from Gold Placer Mining," which is in the record for this notice.) The Agency solicits comment on which data should be used and how it should be aggregated for the purpose of deriving a TSS limitation.

4. Best Available Technology (BAT)

In the notice of proposed rulemaking, the Agency based the proposed BAT limitations on simple settling for mines processing less than 500 yds^3/day, and on recycling for all other subcategories. In light of the Agency's revised economic impact analysis, EPA is considering altering the proposed BAT limitations. The economic impact analysis summarized in section V indicates that recycling of process wastewater is economically achievable for small open-cut mines processing between 1,500 and 70,000 yds^3/year. Those impacts are highlighted in section V of this notice. BAT limitations for these mines, therefore, would be zero

discharge of process wastewater. Excess water which is discharged would have to meet a settleable solids limitation of 0.2 ml/l, the level of SS achievable with simple settling technology.

For medium and large open-cut mines and dredges, the Agency is considering adopting recycling or recycling/chemical treatment as the model BAT technology. Based on the economic impacts summarized in section V of this notice, the Agency believes that recycling is economically achievable for these mine subcategories. The impacts of chemical treatment on these mines are more severe, but still might be in the acceptable range. The Agency solicits comment on the economic achievability of the impacts of chemical treatment on medium-size mines in particular.

If the Agency adopts recycling as the model BAT technology, then BAT limitations would be zero discharge of process wastewater, and a settleable solids limitation of 0.2 ml/l on excess water.

Data collected by the Agency indicate that some toxic metals, including arsenic and mercury, as well as nonconventional pollutant metals, are present in placer mining wastewater. By requiring zero discharge of process wastewater, the Agency would significantly reduce the amounts of these metals discharged into receiving waters. As for excess water, some metals associated with the solids would be removed through the use of simple settling technology designed to meet the BAT limitation of 0.2 ml/l SS. The Agency is not considering regulating toxic metals directly. As discussed in section IV.2., above, EPA's data indicate that simple settling technology does not consistently control the levels of metals in placer mining effluent. Therefore, based on simple settling technology, it would be impossible to set BAT limitations for metals released in excess water from placer mining operations. Nevertheless, given the substantial reductions in metals loadings which will be achieved by BAT limitations on process water, the Agency believes that recycling technology will control the levels of metals in placer mining discharges.

If EPA adopts recycling/chemical treatment as the model technology, the Agency is considering BAT limitations for SS and TSS. The Agency is considering adopting a settleable solids limitation of 0.2 ml/l for excess water. EPA's treatability tests indicate that chemical treatment of mine effluent quickly reduces SS to very low levels below the detection limit of 0.2 ml/l. Because of this, plus the fact the equipment (an Imhoff cone) used in the standard test is so crude, it is impossible to measure accurately these extremely low levels of SS that remain after chemical treatment. As described in previous notices, the Agency has determined that the method detection limit (MDL) for settleable solids is 0.2 ml/l. The Agency is considering establishing BAT limitations for SS based on recycling/chemical treatment at the MDL of 0.2 ml/l.

In addition, the Agency is considering adopting a BAT limitation of 115 mg/l TSS for excess water. Establishing limits for settleable solids only does not reflect the extensive solids reduction which can be achieved through the use of chemical flocculants. Mines would be able to meet the 0.2 ml/l by using settling ponds without any chemical addition. A BAT limitation of 115 mg/l TSS for excess water would reflect the greater pollutant removals achievable with chemical treatment technology.

This TSS limitation would serve as an "indicator" for the presence of metals in mine wastewater. Based on the results of treatability tests, the Agency has determined that chemical treatment effectively reduces the levels of TSS in placer mining effluent. The data also indicate that metals in placer mining effulent, including arsenic and mercury, are associated with the solids in the wastewater. As chemical treatment reduces TSS levels, that technology also tends to reduce the metals content of the wastewater.

The data also indicate that the amount of metals in placer mining wastewater varies depending on the geology of the particular mine site. Generally, chemical treatment takes out the metals as it takes out the solids. Due to site-to-site variation in geology, however, the amount of metals in chemically treated wastewater may vary from one mine to another. Wastewater from two different mines which both have 115 mg/1 TSS may have different types and concentrations of metals, depending on the geological characteristics of each site. As a result, the Agency believes that is is not feasible to set a uniform, nationally applicable effluent limitation guideline for metals based on chemical treatment technology.

Nevertheless, some metals are pollutants of concern in placer mine wastewater, and the Agency's data indicate that chemical treatment tends to reduce the metals levels. The Agency believes that meeting a BAT limitation for TSS will reduce the levels of all the metals found in wastewaters at particular mine sites. Setting a limitation for one or two metals only might not provide adequate treatment for other metals at some mines. If a particular mine site had, in only small amounts or not at all, the metals for which specific limitations were set, the operator might not need to install treatment technology adequate to treat other metals. Therefore, such an operation could neet the BAT limitations for specified metals without having provided adequate treatment for other metals in the wastewater. The Agency believes that limiting total suspended solids and settleable solids at BAT will reduce the levels of all the metals at a particular site to the levels achievable with chemical treatment technology.

The "indicator" pollutant, TSS, is classified as a "conventional pollutant" under section 304(a)(4) of the Clean Water Act. Because control of this "indicator" conventional pollutant is necessary to control the toxic pollutants of concern in this industry, EPA is considering establishing BAT limitations on this basis. It is the Agency's position that when use of a limitation on conventional pollutants is necessary to control toxics, BAT limitations may be established for those conventional pollutants.

EPA's NPDES permit regulations recognize that use of indicators for toxic pollutants might be appropriate in some cases. Under 40 CFR 122.44(e)(2)(ii), the permit-issuing authority may require control of toxic pollutants by setting limitations on other pollutants which, in the judgment of the permit-issuer, will provide adequate treatment for the toxic pollutants of concern. Analogously, the Agency is here considering adopting a TSS limitation at BAT in order to insure adequate treatment of toxic metals found in placer mining wastewater.

5. New Source Performance Standards (NSPS)

In the notice of proposed rulemaking, the Agency proposed NSPS equal to BCT/BAT limitations. For open-cut mines processing less than 70,000 yds^3 year, the Agency is considering adopting NSPS based on recycling of process wastewater, with simple settling treatment of excess water. For these mines, then, NSPS would be no discharge of process water and a limitation of 0.2 ml/l for settleable solid for excess water. EPA is not considering more stringent limitations (i.e., recycling/chemical treatment for excess water), because this technology is not feasible for this mine subcategory. For medium and large open-cut mines and dredges, the Agency is considering adopting either recycling or recycling/chemical treatment as the model technology.

Under section 306 of the Clean Water Act, "new sources" are required to meet new source performance standards. Section 511(c) of the Act does not exempt permits issued to new sources under section 402 of the Act from the National Environmental Policy Act (NEPA). The result is that prior to issuing permits to new source placer mines, EPA must conduct an environmental assessment and possibly an environmental impact statement in accordance with EPA's NEPA regulations. See 40 CFR Part 6.

In the preamble to the notice of proposed rulemaking, the Agency solicited comment on whether the definition of "new source" in EPA's general NPDES regulations was appropriate for the placer mining industry. Under those regulations, "new source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants for which construction began after promulgation or proposal (see discussion below) of new source performance standards under section 306 of the Clean Water Act, if (1) it is constructed at a site at which no other source is located, or (2) it totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or (3) its processes are substantially independent of an existing source. See 40 CFR 122.2, 122.29. No comments were submitted by the public regarding whether this definition should be applied to the placer mining subcategory.

The Agency recognizes that placer mining involves unique practices which are not characteristic of stationary facilities. By definition, placer miners continually move, usually upstream, while mining a pay streak or searching for ore deposits. In Alaska, mining is a seasonal activity that recommences every spring. Depending on such factors as change in the price of gold, miners often rework claims which they or others have already mined. In addition, it is difficult to generalize about industry practice. Some mines may remain stationary for long periods of time while others move often.

While it could be argued that a mine is "constructed" every time it moves from one spot to another, the Agency does not believe that calling every placer mine a new source as often as every several days is appropriate or reflective of Congressional intent. In addition, performing detailed environmental review anytime a mine moved would impose an unworkable administrative burden on the Agency. Furthermore, EPA believes that designation of new source placer mines must be made on a case-by-case basis. Given the variety of possible events that may reasonably affect whether a mine is a new source, the Agency believes that case-by-case determinations will best accomplish the goals of the Clean Water Act. EPA is considering adopting a list of factors for the permit issuing authority to consider in determining whether a mine is a new source. Enumerating industry-specific factors is consistent with the general NPDES new source definition, which applies "except as otherwise provided in an applicable new source performance standard." 40 CFR 122.29(b)(1).

The Agency is considering adopting the following language for the new source factors.

Notwithstanding any other provision of this chapter, the Regional Administrator shall designate new source placer gold mines based on consideration of whether one or more of the following factors has occurred after the date of promulgation.

(1) The mine operates in an area which has not previously been covered by an NPDES permit.

(2) The mine significantly alters the nature or quantity of pollutants discharged as a result of increasing gold recovery plant capacity.

(3) The mine discharges into a drainage basin into which it has previously not discharged.

(4) The mine remines an area that has not been mined during the past five years.

(5) The mine moves to a vicinity which is not contiguous with the area in which the mine was previously operating.

(6) Such other factors as the Regional Administrator deems relevant.

The Agency believes that consideration of these factors will serve the purposes of the CWA and NEPA by focusing the Agency's attention on mines which alter their activities or move to new areas in such a way as to cause new environmental impacts. EPA has utilized a similar approach in listing new source criteria for the coal mining industry. See 40 CFR 434.11. The Agency considered adopting other factors as well, such as whether a mine operates on a claim that had been "inactive" before mining began. State and federal agencies require miners to spend a certain amount of money (100 or 200 dollars) each season on minimum maintenance in order to keep the claim "active". Thus, if a claim had been inactive before mining began, this might indicate that the site was a new area which should be considered a new source. The Agency rejected this as a factor since the minimal activity required to maintain an active claim does not reflect whether mining has actually been conducted on the site.

The Agency solicits comment on whether these factors are appropriate and on other factors which might be used to designate new source placer mines.

An issue of continuing concern under the Clean Water Act has been whether NSPS must be applied to sources which meet the new source criteria after proposal or only after promulgation. Section 306(a)(1) of the Act provides that a "new source" is a source, the construction of which commences after proposal of NSPS if such NSPS are promulgated in accordance with section 306. Section 306(b)(1)(B) requires promulgation within 120 days of proposal. EPA's implementing regulations for direct dischargers provide that a new source means a source, the construction of which commenced either after proposal if the NSPS are promulgated within 120 days or after promulgation in all other cases.

Section 122.2. While the Agency continues to believe the definition of new source in § 122.2 is appropriate and consistent with the Act, the Third Circuit Court of Appeals has held in *NAMF* v. *EPA*, 719 F.2d 624, 641 (3rd Cir. 1983) and *Pennsylvania Department of Environmental Resources* v. *EPA* 618 F2d 991 (3rd Cir. 1980), that as a general matter EPA's new source standards shall be applied to sources construction of which began after the date of proposal. However, the Court in those cases also recognized that there may be circumstances where "substantial changes" occurring between proposal and promulgation would justify applying NSPS as of the promulgation date. See *NAMF* v. *EPA*, 719 F.2d at 643 n.20.

This question is being posed in a case pending before the U.S. Court of Appeals for the District of Columbia, *NRDC* v. *EPA*, No. 80–1607. In that case, the court is deciding the effective date of new source performance standards for direct dischargers under the Clean Water Act.

EPA believes that the circumstances of this rulemaking justify applying new source performance standards to mines which meet new source criteria after the date of promulgation.

One of the important issues in this rulemaking is the definition of "new source." The proposal solicited comment on the possibility of applying the general new source definition to placer mining. Today's notice solicits comment on a list of other possible criteria which may be

adopted in the final rule. The new source criteria ultimately adopted by the Agency in the final rule may differ from those presented in this notice. Furthermore, the Agency's final decision on the definition of new source for this subcategory will be critical to knowing what facilities must comply with new source performance standards. The Agency solicits comment on when NSPS should be applicable to placer mines.

V. Economic Considerations

A. Introduction

In previous notices, EPA solicited comments from the industry, interested organizations and individuals on the Agency's analysis of the economic impacts of the proposed effluent guidelines on the gold placer mining industry. After reviewing written comments received during the comment periods, EPA recognized that further data would be useful to provide a more detailed analysis to support this rulemaking. Accordingly, the Agency has gathered additional information relating to many aspects of the industry. The Agency has used this information to re-evaluate previous assumptions and has revised the economic methodology incorporating the new data and comments. The document that accompanies this notice, "Economic Impact Analysis of Effluent Limitations and Standards for the Notice of Availability for the Placer Gold Mining Industry," describes the revised methodology, assumptions and data used by the Agency in its analysis of the economic impacts associated with this rulemaking.

The major difference between the impacts developed at proposal and for this notice concerns the results shown in the baseline situation—i.e., the estimated number of mines operating profitably prior to imposition of the effluent guideline compliance costs. At proposal, EPA estimated that a large number of previously viable mines (31 percent of U.S gold placer mines) would not operate in the baseline. This projection primarily resulted from the gold price used in the analysis (the 1984 average of $360 per troy ounce). More current data on mine numbers indicate that EPA's analysis was largely correct in this respect. Our current estimate of 480 U.S. mines in 1986 (compared to 568 in 1984) reflects the effects of continuous relatively low gold prices (the current analysis uses a 1986 average price of $377 per troy ounce). EPA believes that this drop in mine numbers reflects both the effect of continued low gold prices (which has weeded out many high cost operators) and generally better information on mine numbers. The current analysis shows only a few baseline closures and, like the proposal results, few incremental closures due to the compliance costs. As occurred at proposal, the most significant effects are profit reductions at the operating mines.

The following discussion summarizes the revised economic methodology, and notes where changes have been made in the assumptions used by the Agency relative to the methodology at proposal. The Agency solicits comments on the methodological approach, assumptions and data used to perform this analysis.

B. Methodology

The economic impacts presented in this analysis result from compliance costs incurred by the industry due to the gold placer effluent guideline regulations. The Agency estimated the required capital investment and annual operating and maintenance costs for several alternative pollution control technologies. To the extent that these added pollution control costs raise the production costs of a gold placer mine, a mine owner will either absorb the increase or not operate the mine. Because gold is an internationally traded commodity and, as such, the price of gold is not influenced by any single producer, gold placer miners must absorb the additional pollution control costs since they cannot pass them on to their customers through higher gold prices. These added expenditures cause an increase in the cost of production with no offset in terms of revenue improvement, thereby causing a corresponding reduction in the earnings and profitability of gold placer mining operations. The pre-compliance profitability of mines adjusted for the cost of pollution control determines the number of mines that are projected to close as a result of the regulations. To examine the economic impact of these increased costs, the Agency has developed an economic model that estimates the profitability of placer gold mines before and after compliance with the effluent guidelines. If mining operations were to close or, more precisely, fail to open for the next mining season following promulgation of this regulation, workers would lose their jobs and gold production and community income would be reduced.

The current economic analysis is based upon a large amount of data that identifies mine numbers, sizes, types, financial conditions, operating characteristics, and many other parameters. The data sources and types of information obtained for use in the analysis include: Federal and State government agencies, published literature and references, placer mining suppliers, transportation companies, survey data collected in the field and other sources related to the placer gold mining industry. Much data and information have also been provided directly by miners and mining companies. This information is presented in the record which accompanies the notice. The particular application of data is discussed in detail and specifically referenced in the economic impact analysis.

The costs of operating and maintaining a gold placer mining operation consist of direct and indirect operating expenses. The direct operating expenses include labor, labor support, energy, supplies, transportation, maintenance services, smelter and refining charges and equipment leasing. The indirect operating expenses include debt service, depreciation and amortization. The sum of these costs are the estimated total cost of a gold placer mining operation. As mentioned above, the economic impact analysis presented here is a significant improvement over that prepared at proposal due to a more realistic and detailed methodology, as well as more complete and current data. The following segments of the methodology discussion describe the revisions made in the economic analysis methodology since proposal. EPA solicits comment on the methodology revisions and specific values used to estimate revenues, costs and impacts.

1. Model Mine Development

To establish operating costs for the current producers of gold from placer mines in the United States, EPA first developed "baseline" model mines for several sizes and types of placer operations. "Baseline" refers to the costs of operating a gold placer mining operation prior to imposing any regulatory controls or related expenses. In light of data obtained since the effluent guidelines were proposed, EPA has modified the baseline model mine sizes on which the Agency's economic impact analysis is based. For purposes of the economic analysis that supported the notice of proposed rulemaking, the Agency considered four model mine sizes (<20 yds^3/day, and 50, 100 and 180 yds^3/hour of bank run ore) and two types of operation (dredge and open-cut). The new methodology uses five mine types to represent mines in Alaska and the lower 48 states. Four of these types (small, medium and large open-cut mechanical mines, and small dredge) were developed on a model mine basis. The fifth mine type, large dredge, was evaluated on the basis of actual data

received from the industry and it was, therefore, unnecessary to develop a model mine representing this type of operation.

Mines that process less than 1,500 cubic yards annually (<20 yd^3/day) are considered recreational in nature and are not covered by these regulations. The new size ranges chosen as the basis of the baseline model mines are as follows:

Mine type	Size range (cubic yards annually)	Value used in baseline analysis (cubic yards annually)
Small open cut	1,500–70,000	35,000
Medium open cut	>70,000–230,000	150,000
Large open cut	>230,000–340,000	340,000
Small dredge	N/A	216,000

The ore processing capacity for the large dredge analyzed by EPA is 970,000 cubic yards annually.

For this analysis, annual production is defined as the volume in cubic yards of bank-run ore that is processed through the plant in one operating season. Each baseline model mine can, on average, operate within the framework of these annual production ranges; that is, the heavy equipment and plant have the engineering and design capabilities to process these production volume ranges without replacing or retrofitting heavy equipment, pump, tanks, etc. The number of daily operating hours is adjusted to accommodate the changes in annual production.

In the notice of proposed rulemaking, EPA estimated that there were 568 active mining operations in 1984 that would be subject to the effluent guidelines. Based upon new data from state agencies and from industry parties, the estimated number of active gold placer mines is 480, of which 216 are in Alaska and 264 are in the lower 48 states (Table V–1). Almost all of these mines are open-cut operations of various size.

TABLE V–1.—ESTIMATED NUMBER OF U.S. GOLD PLACER MINES, BY TYPE, 1986

Mine Type/ Size *	Alaska	Lower 48 States	Total U.S.
Open-Cut Mines:	213	264	477
Small	172	235	407
Medium	33	28	61
Large	8	1	9
Dredges	3	0	3
All Types	216	264	480

* Open-cut mines reflect these annual ore processing capacities: small=1,500–70,000 Cubic yards; medium=70,000–230,000 cubic yards; large=230,000–340,000 cubic yards.

2. Operating Cost Variability Factors

The methodology employed to estimate impacts began with the development of the baseline models described above. However, the Agency could not model every type of gold placer mining operation since each mine is a unique entity with its own site-specific characteristics. To reflect variable site conditions such as transportation, water availability, weather, topography, geology, geography, etc., the Agency derived numerical cost factors to modify or adjust baseline cost estimates according to those conditions prevalent in six regions in Alaska and in the lower 48 states.

The use of variable cost factors in the revised economic methodology is a major improvement relative to the approach used in the proposal analysis. Comments received by EPA on the proposal indicated that it is necessary to take account of mine-site variations which affect placer mine operating costs. Based on historical data and information obtained by EPA in Alaska during the summer of 1986, the Agency found that it was possible to differentiate the models to reflect conditions such as climate and geology accordingly to the region in Alaska where mines are located. The Agency divided Alaska into six regions, according to the boundaries established by the Alaska Office of Mineral Development as cited in the "Alaska's Mineral Industry 1985" report. The Agency then assigned cost factors which reflected the conditions found in those regions. For example, for mines located in Alaska's Northern Region, the Agency calculated factors to reflect the cost of coping with permafrost and high transportation costs associated with operating in a remote region. The Agency found that mining conditions in the lower 48 states were sufficiently similar to justify treating all mines in the lower 48 states as a single group. EPA solicits comment on the use of variable cost factors in its economic methodology; the factors are discussed in more detail in the public record documents accompanying this notice.

3. Supply Curves and Closure Projections

The application of the variable cost factors described above resulted in the development of "representative" mines for each mine type in each region where that mine type is found. For each representative mine, the Agency calculated pre-compliance operating costs based on dollars-per-cubic-yard of ore processed and then converted this value into dollars-per-fine-ounce of gold production; that is, the cost in dollars of producing a fine ounce of gold prior to imposing any regulatory controls and related expenses. In this way, the Agency developed a systematic method of comparing mining costs under a variety of conditions for the gold placer mining industry.

The Agency then used this data to generate supply curves for each mine size in each region. The supply curves represent the total quantity of gold produced by each mine type in each region. In order to estimate the supply curves, the Agency derived total operating costs of the lowest and highest cost mine for each mine type in each region. Interpretation of the supply curve is based on the economic principle that a gold placer mining operation's cost per fine ounce of gold produced must be lower than the 1986 average price of gold in order for the mine to continue operating as a variable, profitability entity.

The Agency estimated total cumulative gold production by summing all gold produced by active gold placer mining operations in Alaska and the lower 48 states for the 1986 mining season. Since there is a question as to the amount of gold produced in the U.S., the Agency estimated gold production by estimating the size and number of operating mines and other factors. For example, in the southwestern region of Alaska there were an estimated 10 small open-cut mines operating in 1986. Based on the small open-cut mine model, these mines process on average 35,000 cubic yards each per season or a total of 350,000 cubic yards of bank-run ore. Seasonal production of ounces of "raw" gold (i.e., mine run gold) is calculated by multiplying the total cubic yards of bank-run ore processed by the average ore grade. The average ore grade is measured in ounces of gold recovered per cubic yard of ore processed. Fine ounces of gold are then derived by application of gold fineness, or purity, values determined for each region. A nugget bonus is then applied to the open-cut mechanical mines and small dredges. Nuggets possess additional value above their gold content because of their special appeal to the public. (Our procedures and assumptions with respect to gold fineness and nugget value are described in segment 4 below). The nuggets' value is then converted into a fine gold equivalent. Cumulative gold production at any particular point

on the supply curves is equal to the sum of the production of all mines that can deliver gold at a cost less than or equal to that which occurs at that point on the supply curve.

To determine the amount of gold production lost and the number of mine closures resulting from implementing effluent guideline limitations, a post-compliance supply curve is estimated which takes into account the costs of meeting the effluent guideline. All mines with total post-compliance operating costs (on a pre-ounce of gold recovered basis) greater than the 1986 price of gold per ounce are projected to close (i.e., would not operate in the 1987 season) due to regulatory controls. Pre-compliance (baseline) production losses and resulting mine closures (i.e., prior to imposition of compliance costs) have been estimated to derive the actual production losses and mine closures resulting directly from the imposition of pollution control compliance costs. These results are discussed in section V–C.

4. Ore Parameters and Gold Valuation

In the economic analysis prepared for proposal, the Agency made several assumptions about ore grade and gold fineness. Also, the economic methodology supporting the proposed rule did not take into account the particular value of gold in nugget form recovered by placer miners. In light of comments received by the Agency and additional data obtained during the past year, EPA is revising these assumptions. The Agency solicits comments on these changes, which are described below, and which are discussed in detail in the economic analysis found in the public record.

In the notice of proposed rulemaking, the Agency estimated that all gold mined by the industry had an ore grade of .002. That estimate was based on data contained in studies conducted by the U.S. Bureau of Mines. Commenters indicated that this estimate was too high, and the Agency commissioned additional study of the ore grade question during the 1986 mining season. On the basis of additional data collected by EPA, the Agency concluded that assigning different ore grade values for each of the regions in Alaska and for the lower 48 states more accurately reflects field conditions.The Agency recognizes that ore grade will, in fact, vary further from site-to-site within regions. However, it is not feasible for EPA to collect ore grade data at every mine in Alaska and the lower 48 states. In addition, it is impossible for the Agency to calculate operating costs for the mine subcategories based on an infinite number of ore grade values. EPA believes that taking account of ore grade variations from region to region is justified by the best available evidence and reflects on-site conditions to the maximum extent possible.

The Agency has also decided to adjust ore grade values based on the size of the mining operation. The economic methodology prepared for proposal did not consider mine size in deriving a single ore grade. Based on available information, the Agency believes that larger-sized mines generally produce gold at a lower unit cost than smaller mines due to economies of scale. Thus, larger mines can cover their operating costs while mining a lower ore grade. Therefore, for the large, open-cut mines, the Agency is calculating revenues based on ore grade 5 percent lower than the average ore grade applicable to each geographic region. For small, open-cut mines, the Agency is calculating revenues based on an ore grade 5 percent higher than the average ore grade for each region. Medium, open-cut miners are assumed to be processing gravel with an ore grade equal to the average value for the relevant region. Similarly, the Agency assumed that dredges processed an ore grade which woud allow the operator to recover his/her operating costs. The Agency assigned an ore grade equivalent to the region which they operate. The Agency solicits comment on the assumptions used in this ore grade analysis.

At proposal, the Agency assumed that all gold had a fineness of .800, i.e., the gold was 80 percent pure. Eighty percent represented the average of the data possessed by the Agency at the time the effluent guidelines were proposed. In light of comments received which criticized that value, EPA studied the gold fineness question during the past year. The Agency expanded its database and reviewed information on the fineness of gold found in riverbeds in Alaska. EPA is now using gold fineness values that reflect historical values for Alaska; these range from .880 to .908. The value used for the lower 48 states is .900. EPA solicits comment on its new assumptions about gold fineness.

As previously mentioned, the Agency did not consider a "nugget bonus" when it proposed these effluent guidelines. EPA is aware that mines often uncover nuggets which have additional value above their weight in fine gold. To measure accurately the volume of gold production and the revenue of placer mines, it is necessary to take the particular value of nuggets into account. Regarding the amount of nuggets uncovered by a variety of mining operations, the Agency's experience is that nuggets are more numerous in steep canyons which are closer to the source of the gold. Since only the smaller mines are capable of operating in the narrower canyons, the Agency has assumed that 20 percent of the gold mined by the small, open-cut mines is in nugget form. For medium and large open-cut mines, which tend to mine the wider canyons and find relatively fewer nuggets, the Agency assumes that 15 percent of their mined gold is in nugget form A nugget bonus of 30 percent (relative to the value of the equal weight of fine gold) is also applied to all nugget production to reflect the higher price paid for gold in this form. EPA requests comment on the assumptions applied to gold nugget value and recovery rate.

5. Operating Cost Parameters

Based on comments and other information gathered during the 1986 mining season, the Agency has revised its method of estimating the operating costs of the baseline model mines so as to more accurately reflect the actual mining conditions. The cost estimates in the proposal were based on the assumption that miners leased new mining equipment. However, miners stated in comments that they in fact employ used equipment in their operations. Therefore, the revised methodology assumes that miners utilize used equipment that is in good condition. As a result of this revision, the Agency has reduced the production rates of the baseline model mines to reflect the fact that used equipment operates less efficiently than new equipment.

A related point concerns equipment ownership. At proposal, the Agency assumed that mining equipment was leased. After the most recent field investigation, EPA has concluded that in fact the vast majority of miners own the equipment they use, and the Agency has revised its equipment cost estimates accordingly. As a result of this change, the new economic methodology expressly calculates the costs of amortization and depreciation. The methodology supporting the proposal did not address these factors because they were presumed to be incorporated into leasing charges.

EPA has also revised its method of calculating "auxiliary" expenses, which includes the costs of pumps, generators, wiring, piping, camping supplies, freighting, start-up and clean-up, on-site and off-site maintenance and financing charges. Previously, the Agency did not have adequate data to calculate these

costs individually, and the methodology supporting the proposal estimated that these costs equaled 25 percent of the model mines' heavy equipment costs. Miners stated in comments that this assumption was unrealistic. Since proposal, the Agency has gathered additional information on these inputs as specific cost items, and the revised economic methodology itemizes the auxiliary expenses for each baseline model mine. EPA requests comment with respect to these revisions concerning equipment age, efficiency, ownership, and the costs of auxiliary equipment.

One cost component of placer mines is smelter fees, i.e., the cost of having the gold processed by a smelter. At proposal, the Agency assumed that smelter costs equaled 2–3 percent of the value of the material that was smelted. Comments by miners contested this figure. EPA revisited this question during the past year and obtained the fee schedules of various smelters. Smelters vary their rates according to the volume of gold submitted by the miner. Miners who supply more gold to the smelter are charged a lower rate. The revised economic methodology reflects this practice by varying smelter fees based on the size of the baseline model mine.

As previously indicated, EPA used the 1984 average gold price ($360 per troy ounce) in deriving revenues in the proposal's economic analysis. For this notice, revenue estimates were calculated based on the average price of gold during the 1986 mining season: $377 per troy ounce. The Agency solicits comment on the use of this value in determining impacts.

C. Impact Analysis Summary

This section of the notice presents and discusses the results of the economic analysis. These results are described in more detail in the economic report contained in the public record. EPA solicits comments on the analysis results and on our conclusions with respect to the economic achievability of the technology options. The first segment of this section describes the approach to the sensitivity results described throughout section C.

1. Approach Used in the Sensitivity Analysis

To assess the impact of the cost of compliance of these regulations on the economic viability of gold placer mining operations, the Agency developed an economic impact methodology based on model mines of various types, sizes and configurations (as described in section B). The size of the mining venture, in terms of the average amount of ore processed on an annual basis, has a significant effect on the mine's potential to absorb compliance costs and continue to operate profitably. The mechanical open-cut mines were designed for annual "baseline" production volumes of 35,000, 150,000 and 340,000 cubic yards of gravel per mining season. These capacities represent typical values for mines that can reasonably be considered small, medium and large in size, respectively. In order to reflect the variations in operation that occurs between mines, our analysis expanded these baseline model mines to evaluate the effect of a 35,000 cubic yard mine processing 50,000, 60,000 or 70,000 cubic yards annually, while still working within the capacities of the baseline plant and heavy equipment. The 150,000 cubic yard baseline model mine was adjusted to process volumes of 120,000, 180,000 and 210,000 cubic yards of ore annually. The 340,000 cubic yard baseline model mine was similarly adjusted to show the effects of processing 300,000, 270,000, and 240,000 cubic yards of ore annually.

The Agency estimates there were 172 small open-cut mines operating in Alaska during the 1986 mining season, each processing between 35,000 and 70,000 cubic yards of ore annually. The Agency allotted these 172 mines across this range of processing volume assuming a normal distribution (Table V–2). The Agency estimated there were 33 medium open-cut mines operating in Alaska during the 1986 mining season, each processing between 120,000 and 210,000 cubic yards of ore annually. The Agency allotted these 33 mines across this range of processing volume assuming a normal distribution (Table V–2). The Agency estimated there were 33 medium open-cut mines operating in Alaska during the 1986 mining season, each processing between 120,000 and 210,00 cubic yards of ore annually. The Agency allotted these 33 mines across this range of processing volume assuming a normal distribution. For large open-cut mines, the Agency estimated there were eight mines operating in Alaska during the 1986 mining season, each processing between 240,000 and 340,000 cubic yards annually. The Agency allotted one mine each to mine volumes of 240,000, 270,000, 300,000 cubic yards, and five mines to 340,000 cubic yards based on available information concerning the larger mines. The estimated numbers of mines in the lower 48 states were similarly distributed within the three size groups.

TABLE V–2.—DISTRIBUTION OF MINES WITHIN SIZE GROUPS FOR THE SENSITIVITY ANALYSIS

Mine type/size group	Ore processing capacity (cubic yds/yr)	Location	
		Alaska	Lower 48 States
Open Cuts:			
Small	35,000	29	42
	50,000	56	76
	60,000	59	75
	70,000	28	42
Medium	120,000	7	5
	150,000	11	9
	180,000	10	9
	210,000	5	5
Large	230,000	1	0
	270,000	1	0
	300,000	1	0
	340,000	5	1
Dredges:			
Small	216,000	2	0
Large	970,000	1	0

The best data available to EPA indicate that three dredges operated in Alaska in 1986; of these, two were small and one was large (Table V–2). No gold placer dredges were known to operate in the lower 48 states in 1986 that required an NPDES permit.

These incremental mine sizes provide a range of annual production volumes for open-cut mechanical mining operations the Agency believes were operating during the 1986 mining season. The distribution of mines within the size classifications allows the Agency to determine under which circumstances adverse economic impacts would occur as a result of specific technology-based effluent guideline limitations.

2. Baseline Economic Issues

In response to comments received on the economic analysis prepared at proposal (which indicated a large number of baseline closures), the Agency re-evaluated the financial performance of mines as part of a major re-examination of the gold placer mining industry. EPA questioned the validity of many previously-used assumptions which resulted in the finding that many mines were unprofitable prior to imposition of wastewater controls. This finding was inconsistent with the fact that several hundred miners operated successfully during the last two seasons and plan to do so again in the future. The Agency believes the assumptions used in the revised analysis more accurately reflect the conditions faced by the gold placer mining industry.

EPA's revised analysis indicates that mine sizes are generally profitable in the baseline (i.e., prior to imposition of any regulatory expenditures). This conclusion is derived from available data plus the assumptions and parameters employed in the model mine analysis discussed in the previous

sections. However, the Agency recognizes that some mines may be unprofitable prior to imposition of regulatory controls and will not operate in the following season; these mines are considered baseline closures under this analysis. EPA solicits comment on the revised analysis of baseline financial conditions, described fully in the economic report included in the record.

3. Impact Analysis Results

Each mine type and size was analyzed in terms of economic profitability prior to and after incurring technology-based compliance cost options. Technology-based options that were analyzed for economic impacts include: Two variations of simple settling (options 1 and 2); two variations of simple settling plus recycle (options 3 and 4); and two variations of simple settling plus recycle plus chemical treatment of discharge equal to 300 gpm (options 6b and 6c). Additional technologies include tundra filters and filter dams, but these options were not analyzed because the very site-specific nature of these add-on technology options preclude the Agency from basing effluent guidelines on these options. To the extent they are technically feasible at a mining site, they may be an attractive and generally economical method of reducing pollutant discharges.

For the purposes of this notice, BPT, BCT, BAT, and NSPS regulations are based on options 1, 2, 3, 4, 6b and 6b. The specific economic impacts of all technology-based options being considered for all mine sizes in terms of mine closures, job losses, reduction in gold production, compliance costs and changes in return or investment are presented in Chapter 8 of the economic report accompanying this notice.

Tables V–3, V–4 and V–5 present the results of the economic impact analysis with respect to the small, medium and larger open-cut mines, respectively. Each table presents the impacts for mines located in Alaska and in the lower 48 States. Table V–6 presents the impact results for dredges, which are found only in Alaska. Generally, the results show that the impacts of any given option lessen as a mine increases the volume of ore processed. This is entirely consistent with the principle of declining marginal costs—i.e., as throughput increases, the cost per unit decreases. In this industry, as more ore is processed (and more gold recovered), the impact of the compliance costs is mitigated.

TABLE V—3.—SUMMARY OF ECONOMIC IMPACTS FOR SMALL OPEN-CUT MINES [a]

Technology options	Compliance Cost/Sales [e] (percent)		Percent increase in operating costs due to compliance [d]		Income reduction [e] (percent)		Number of closures		Job losses	
	Model	Range	Model	Range	Model	Range	Model	Range	Model	Range
Alaska—172 Mines										
Option 1	<1	<1	<1	<1	1.5	1.1–1.5	0	0	0	0
Option 2	<1	<1	<1	<1	1.9	1.4–1.8	0	0	0	0
Option 3	3.7	3.7–3.8	4.9	4.9–5.5	13.8	10.3–13.8	0	0–1	0	0–3
Option 4	4.7	4.7–4.8	6.1	6.1–6.9	17.2	12.8–17.2	0	0–1	0	0–6
Option 6 [b]	6.8	6.8–6.9	8.9	8.9–10.1	25.2	18.1–25.2	0	0–2	0	0–6
Option 6 [c]	7.7	7.7–7.9	10.1	10.1–11.4	27.4	19.7–27.4	1	1–3	3	3–9
Lower 48 States—235 Mines										
Option 1	<1	<1	<1	<1	1.5	1.1–1.5	0	0	0	0
Option 2	<1	<1	<1	<1	1.8	1.3–1.8	0	0	0	0
Option 3	4.1	4.1	5.2	5.2–5.9	14.0	10.2–14.0	0	0–1	0	0–3
Option 4	5.1	5.1	6.5	6.5–7.3	17.4	12.7–17.4	1	1	3	3
Option 6 [b]	7.4	7.4	9.5	9.5–10.7	25.5	18.5–25.5	1	1–2	3	3–6
Option 6 [c]	8.4	8.4	10.7	10.7–12.1	28.9	21.0–28.9	1	1–2	3	3–6

[a] Defined as mines processing from 1,500 to 70,000 cubic yards ore/year. Values reported for the "Model" represent impacts for mines processing 35,000 yards ore; values for the "Range" represent impacts for mines processing 35,000, 50,000, 60,000 or 70,000 yards ore.
[b] Option definitions: 1=simple settling, 1 pond; 2=simple settling, 4 ponds; 3=simple settling+recycle, 1 pond; 4=simple settling+recycle, 4 ponds; 6b=simple settling+recycle, 1 pond, full feed chemical treatment of 300 gpm excess wastewater; 6c=same as 6b except for 4 ponds.
[c] Annualized compliance costs divided by gross revenues.
[d] Compliance costs divided by total pre-compliance operating costs.
[e] Pre-compliance income minus post-compliance income divided by pre-compliance income.

TABLE V-4—SUMMARY OF ECONOMIC IMPACTS FOR MEDIUM OPEN-CUT MINES [a]

Technology options [b]	Compliance cost/sales [c] (percent)		Percent increase in operating costs due to compliance [d]		Income reduction [e] (percent)		Number of closures		Job losses	
	Model	Range	Model	Range	Model	Range	Model	Range	Model	Range
Alaska—33 Mines										
Option 1	<1	<1	<1	<1	1.6	1.2-2.5	0	0	0	0
Option 2	<1	<1	<1	<1	1.9	1.3-2.9	0	0	0	0
Option 3	2.5	2.4-2.5	3.2	3.2-3.6	10.4	7.4-13.3	0	0-1	0	0-10
Option 4	3.3	3.1-3.3	4.1	4.1-4.6	13.3	9.5-17.0	0	0	0	0
Option 6 [b]	3.5	3.3-3.5	4.4	4.4-5.0	14.2	10.1-18.1	0	0-1	0	0-10
Option 6 [c]	4.2	3.9-4.2	5.3	5.3-6.0	17.0	12.2-21.8	0	0-1	0	0-10
Lower 48 States—28 Mines										
Option 1	<1	<1	<1	<1	2.8	1.7-7.1	0	0	0	0
Option 2	<1	<1	<1	<1	3.2	1.9-8.2	0	0	0	0
Option 3	2.8	2.8	3.3	3.3-3.7	17.7	10.7-33.9	0	0	0	0
Option 4	3.6	3.6	4.1	4.1-4.7	22.6	13.6-43.2	0	0	0	0
Option 6 [b]	3.8	3.8	4.4	4.4-5.0	24.2	14.5-46.2	0	0	0	0
Option 6 [c]	4.6	4.6	5.3	5.3-6.0	29.7	17.5-37.0	0	0	0	0

[a] Defined as mines processing from 70,000 to 230,000 cubic yards ore/year. Values reported for the "Model" represent impacts for mines processing 150,000 yards ore: values for the "Range" represent impacts for mines processing 120,000, 150,000, 180,000 or 210,000 yards ore.
[b] Option definitions: 1=simple settling, 1 pond; 2=simple settling, 4 ponds; 3=simple settling, + recycle, 1 pond; 4=simple settling, + recycle, 4 ponds; 6b=simple settling, + recycle, 1 pond, full feed chemical treatment or 300 gpm excess wastewater; 6c=same as 6b except for 4 ponds.
[c] Annualized compliance costs divided by gross revenues.
[d] Compliance costs divided by total pre-compliance operating costs.
[e] Pre-compliance income minus post-compliance income divided by pre-compliance income.

TABLE V-5—SUMMARY OF ECONOMIC IMPACTS FOR LARGE OPEN-CUT MINES [a]

Technology options [b]	Compliance Cost/Sales [c] percent		Percent increase in operating costs due to compliance [d]		Income reduction [e] percent		Number of closures		Job losses	
	Model	Range	Model	Range	Model	Range	Model	Range	Model	Range
Alaska—8 Mines										
Option 1	<1	<1	<1	NM	1.8	NM	0	0	0	0
Option 2	<1	<1	<1	NM	2.0	NM	0	0	0	0
Option 3	2.0	2.0-2.5	2.6	NM	9.9	NM	0	0-1	0	0-20
Option 4	2.4	2.4-2.9	3.0	NM	11.5	NM	0	0-1	0	0-20
Option 6 [b]	2.7	2.7-3.4	3.5	NM	13.4	NM	0	0-1	0	0-20
Option 6 [c]	3.1	3.1-3.8	4.0	NM	15.0	NM	0	0-1	0	0-20
Lower 48 States—1 Mine										
Option 1	<1	NA	<1	NA	2.5	NA	0	NA	0	NA
Option 2	<1	NA	<1	NA	2.7	NA	0	NA	0	NA
Option 3	2.3	NA	2.5	NA	13.7	NA	0	NA	0	NA
Option 4	2.7	NA	2.9	NA	15.9	NA	0	NA	0	NA
Option 6 [b]	3.2	NA	3.4	NA	18.6	NA	0	NA	0	NA
Option 6 [c]	3.5	NA	3.8	NA	20.8	NA	0	NA	0	NA

[a] Defined as mines processing from 230,000 to 340,000 cubic yards ore/year. Values reported for the "Model" represent impacts for mines processing 340,000 yards ore; values for the "Range" represent impacts for mines processing 230,000, 270,000, 300,000 or 340,000 yards ore. NM=Not Meaningful; the range in values for income reduction and percent increase in operating cost for large mines reflect such a large reduction in throughput relative to the model that these financial results are invalid. NA=Not Applicable; only one large open-cut mine exists in the lower 48 states.
[b] Option definitions: 1=simple settling, 1 pond; 2=simple settling, 4 ponds; 3=simple settling + recycle, 1 pond; 4=simple settling + recycle, 4 ponds; 6b=simple settling + recycle, 1 pond, full feed chemical treatment of 300 gpm excess wastewater; 6c=same as 6b except for 4 ponds.
[c] Annualized compliance costs divided by gross revenues.
[d] Compliance costs divided by total annual operating costs.
[e] Pre-compliance income minus post-compliance income divided by pre-compliance income.

TABLE V-6.—SUMMARY OF ECONOMIC IMPACTS FOR DREDGES [a]

Technology options [b]	Compliance Cost/Sales [c] percent	Percent increase in operating costs due to compliance [d]	Income reduction [e] percent	Number of closures	Job losses
SMALL DREDGES—2 MINES					
Option 1	<1	2.2	1.4	0	0
Option 3	3.8	3.0	8.4	0	0
Option 6 [b]	5.2	10.1	11.7	0	0
LARGE DREDGES—1 MINE					
Option 1	<1	<1	3.4	0	0
Option 3	2.5	3.0	16.1	0	0
Option 6 [b]	3.4	4.0	21.3	0	0

[a] Small and large dredges process 216,000 and 970,000 cubic yards annually, on average. all dredges are Alaska operations.
[b] Option definitions: 1=simple settling, 1 pond; 3=simple settling+recycle, 1 pond; and 6b=simple settling+recycle, 1 pond, full feed chemical treatment of 300 gpm excess wastewater.
[c] Annualized compliance costs divided by gross revenues.
[d] Compliance costs divided by total annual operating costs.
[e] Pre-compliance income minus post-compliance income divided by pre-compliance income.

a. BPT Summary. The BPT options for open-cut mines of all sizes represent simple-settling technology (options 1 and 2). The total annual cost of option 1 for all open-cut mines is $.92 million; for option 2, annual costs for all open-cut mines are $1.08 million (Table V–7). The difference between options 1 and 2 is that option 1 assumes the miner constructs one settling pond, while option 2 assumes that four ponds are constructed over the course of a mining season. The impacts of options 1 and 2 are very low across the board. There are no mine closures or job losses projected for these options. The compliance cost-to-sales ratio and percent increase in operating costs due to compliance are all less than one percent for all mines.

TABLE V-7.—TOTAL ANNUAL COMPLIANCE COSTS FOR GOLD PLACER MINING OPTIONS($000)

Mine Type/Size	Technology options					
	1	2	3	4	6B	6C
Open-Cuts:						
Small	585	691	5,419	6,747	9,881	11,209
Medium	261	302	1,667	2,126	2,271	2,730
Large	76	82	422	490	570	558
Dredges:						
Small	21	.....	127	.....	177	.....
Large	23	.....	108	.....	143	.....
Totals	966	1,075	7,743	9,363	13,042	14,497

The income effects of options 1 and 2 are generally quite minor. These effects are relatively higher in the lower 48 states compared to Alaska mines. The percent reduction in mine income (after allowance for salaries for all crew members) at BPT is 3.2 percent or less for all model mines. The BPT options for dredges are options 1 and 3. The total annual cost of option 1 for dredges is $.044 million; for option 3 the annual cost is $.235 million (Table V–7). The impacts of option 1 are low. The compliance cost-to-sales ratios for small and large dredges are less than one percent, and mine income reductions are 3.4 percent or less. Option 3 has compliance cost-to-sales ratios of 3.8 and 2.5 percent for small and large dredges, respectively. Income reductions (after accounting for full salaries for all workers) are 8.4 and 16.1 percent for small and large dredges, respectively, under option 3.

Overall, the BPT requirements cause no significant economic effects on open-cut or dredge operations.

b. BCT Summary. The BCT options for medium and large open-cut mechanical mines and dredges represent limitations based upon simple settle plus recycle (options 3 and 4) or simple settle plus recycle plus chemical treatment of excess water (options 6b and 6c). The total annual costs of options 3 and 4 on medium and large open-cut mines are $2.09 million and $2.62 million, respectively (Table V–7). The total annual costs of options 6b and 6c on medium and large open-cut mines are $2.84 million and $3.3 million, respectively (Table V–7). For small open-cut mines, BCT is equal to BPT.

The impacts of BCT options 3 and 4 on medium-size open-cut are presented in Table V–4. The values for the ratio of compliance cost to sales and percent increase in operating costs range from 2.4 to 3.3 percent and 3.2 to 4.7 percent, respectively. The income reductions for medium model mines are in the range of 10.4–13.3 percent in Alaska and 17.7–22.6 percent in the lower 48 states. The sensitivity results for income reduction show that these values may be as high as 17 percent and 43 percent in Alaska and the lower 48 states, respectively. There are virtually no closures or job losses associated with options 3 or 4 for medium mines.

The impacts of options 3 and 4 on large mines are relatively low in Alaska, but higher in the lower 48 states (see Table V–5). The cost measures show little impact on large mines and the model mine income reduction values for Alaska are moderate (9.9–11.5 percent). The lower 48 states model mine income reductions range from 13.7 to 15.9 percent under options 3 and 4. The "range" of values for income reduction and percent increase in operating costs for large mines when throughput levels are significantly reduced are not meaningful. As the production volumes are reduced below design capacity, the per-unit costs incurred by large mines due to fixed overheads increase dramatically. This applies to some extent to the small and medium size mines, but the effects are much less pronounced. Since mines normally do not operate at levels far below design capacity, the Agency believes that the high costs associated with inefficient operation in this manner will not accurately reflect actual operating conditions.

The impacts of options 6b and 6c for medium mines are not significantly higher than options 3 and 4, especially in Alaska. Model mine income reductions in Alaska range from 14.2 to 17 percent under 6b and 6c compared to reductions of 10.4 to 13.3 percent under options 3 and 4. In the lower 48 states the income impacts of options 6b and 6c are quite high, ranging from 24.2 to 29.7 percent. There are no closures or job losses associated with options 6b and 6c for medium model mines.

The impacts of options 6b and 6c on large Alaskan mines are moderate to high. If these mines operate at capacity, the income reductions are in the range of 13.4 to 15 percent. As noted above, the mine income sensitivity results may not be meaningful for operations in Alaska that run well short of capacity. The operating cost increases for options 6b and 6c are not extreme ($\leq$3.8 percent in Alaska and the lower 48 states).

The total annual costs of the BCT options for dredges are $.235 million (option 3) and $.32 million (option 6b) (Table V–7). The impacts of option 3 are relatively low for small dredges and moderate for large dredges. The compliance cost-to-sale ratios are $\leq$4 percent for dredges of either size under option 3 but the mine income reduction for the large dredge is estimated at 16.1 percent (Table V–6). Option 6b has a higher, though still moderate impact, on small dredge mines. For a large dredge, however, the mine income reduction under option 6b is greater than 20 percent (21.3 percent).

c. BAT Summary. Incremental BAT requirements for small open-cut mines represent limitations based on simple settling plus recycle (options 3 and 4). The total annual costs of options 3 and 4 for small open-cut mines are $5.4 million and $6.75 million, respectively (Table V–7). For small open-cut mines, options 3 and 4 have compliance cost-to-sales ratios ranging from 3.7 to 5.1 percent (Table V–3). Due to compliance with these options, operating costs increase by from 4.9 to 7.3 percent. The projected mine income reductions (after consideration of full salaries for all workers) are in the range of 10.2 to 17.4 percent, which is considered moderate to high. These options do not have significant closure or employment effects. Only option 4 results in any model mine closures (one in the lower 48 states, with three job losses), although the sensitivity results show that one additional closure is possible in Alaska.

For the other mine subcategories, the Agency is considering the same options at BAT as under BCT. The impacts of these technologies are summarized in the previous section of this notice.

d. New Sources (NSPS). The Agency is considering adopting recycling or recycling/chemical treatment as the model technology for new source performance standards. If EPA decides that recycling is appropriate at BAT, the Agency will evaluate the incremental impacts on new sources of requiring more stringent technology. The Agency solicits comment on how the costs of more stringent technology would impact new source placer mines.

D. Cost-effectiveness analysis

The cost-effectiveness analysis is included in the record of this notice. EPA invites comment on the analysis methodology and results.

E. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those which impose a cost on the economy of $100 million or more or meet other economic impact criteria. The regulation for gold placer mining activities is not expected to be a major rule. The costs expected to be incurred by this industry (<$12 million annually) are significantly less than $100 million. Therefore, a formal Regulatory Impact Analysis is not required. The Agency's regulatory strategy for this industry considers both the cost and economic impact of the regulation.

F. Regulatory Flexibility Analysis

Public Law 96–354 requires that a Regulatory Flexibility analysis be prepared for regulations that are proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with, or as a part of, any other analysis conducted by the Agency. A preliminary small business analysis is included in the economic impact analysis accompanying this notice.

The Agency is considering a new definition of small businesses for this regulation. At proposal, the Agency set a definition of small mines as those falling into two classifications: (1) Recreational/Assessment mines (those processing 20 cubic yards or less of ore per day); and (2) small commercial mines processing 500 cubic yards or less of ore per day. The new definition under consideration is also based on two classifications and continues to employ the "Recreation/Assessment" type of operation, the only difference being that the ore processing level defining this classification is stated on an annual basis—i.e., $\leq$ 1,500 cubic yards of ore per year. The Agency has proposed not to establish effluent limitations guidelines and standards for these operations. Of course, under the Clean Water Act, these mines are still required to obtain NPDES permits.

The second classification of "small" mines will be used not to totally exclude mines from the regulation but to identify the acceptable regulatory level for small commercial mines—i.e., BPT, BAT or BCT. EPA is now considering including within the definition of "small" those commercial mines processing more than 1,500 and less than 70,000 cubic yards or ore annually. These mines respectively represent about 80 percent of the gold placer mines in Alaska and about 90 percent of the mines in the lower 48 states. In Alaska, these mines typically have annual revenues below $300,000 (see Table V–8) and employ less than 10 people each, with many employing only three persons. In the lower 48 states, these mines have annual revenues below $200,000 and also employ a small number of people per mine.

TABLE V–8.—ANNUAL REVENUES AND EMPLOYMENT FOR TROPICAL GOLD PLACER MINES [a] ($ MILLIONS 1986)

Mine type	Alaska			Lower 48 States		
	Number of mines	Revenues per mine	Employees per mine	Number of mines	Revenues per mine	Employees per mine
Small Open-Cut	172	$.268	3	235	$.183	3
Medium Open-Cut	33	$1.11	10	28	$.75	10
Large Open-Cut	8	$2.50	20	1	$1.60	20
Small Dredge	2	$1.70	6	0	.....	.....
Large Dredge	1	$4.25	110	0	.....	.....

[a] Small, medium and large open-cut mine processing levels are 35,000, 150,000 and 340,000 cubic yards per year. Small and large dredge processing levels are 216,000 and 970,000 cubic yards per year.

These definition revisions are based on the impact data presented in section V–C (see Tables V–3, 4, 5 and 6). Our projected impacts show that small open-cut mines (those processing <70,000 cubic yards of ore/year) in Alaska and in the lower 48 states incur relatively high impacts (cost-to-sales ratios generally greater than 6.8 percent and mine income reductions of at least 18 percent) under the most stringent options for BCT, options 6b and 6c. Options 3 and 4 represent BCT levels of control that create less severe impacts

for mines in this classification. The Agency requests comment on the new small business definition and whether the Agency should consider alternative regulatory levels for small businesses.

Dated: March 12, 1987.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 87-6332 Filed 3-23-87; 8:45 am]

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federal register

Tuesday
March 24, 1987

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 51 and 52

Federal Acquisition Regulation; Contractor Use of Government Discount Air Passenger Transportation Rates; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 51 and 52

Federal Acquisition Regulation (FAR); Contractor Use of Government Discount Air Passenger Transportation Rates

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) to add a new FAR Subpart 51.3, Contractor Use of Government Discount Air Passenger Transportation Rates, and a new contract clause at FAR 52.251-3, Government Discount Air Passenger Transportation Rates. The coverage and clause provide policy permitting contractor personnel traveling under certain Government contracts to use the same discount air fares available to Federal employees traveling at Government expense. The availability of discount fares to Government contractors was announced in GSA Bulletin FPMR A-87, dated April 9, 1985, which has since been superseded by GSA Bulletin FPMR A-90, dated August 15, 1986.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 26, 1987 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87-09 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

An initial Regulatory Flexibility Analysis has not been performed because the proposed changes should not have a significant cost or administrative impact on a substantial number of small entities. These rates will be readily available through a standard travel agent network already utilized by small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the proposed changes do not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 51 and 52

Government procurement.

Dated: March 18, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 51 and 52 be amended as set forth below:

1. the authority citation for Parts 51 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Ch. 137; and 42 U.S.C. 2453(c).

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

2. Section 51.000 is revised to read as follows:

51.000 Scope of part.

This part prescribes policies and procedures for the use by contractors of Government supply sources, interagency motor pool vehicles and related services, and Government discount air passenger transportation rates.

3. Part 51 ia amended by adding a new subpart 51.3, consisting of sections 51.300 through 51.303, to read as follows:

SUBPART 51.3—CONTRACTOR USE OF GOVERNMENT DISCOUNT AIR PASSENGER TRANSPORTATION RATES

Sec.

Authority: 40 U.S.C. 486(c); 10 U.S.C. Ch. 137; and 42 U.S.C. 2453(c).

Subpart 51.3—Contractor use of Government Discount Air Passenger Transportation Rates

51.300 Scope of subpart.

This subpart prescribes policies and procedures for use by contractors of Government discount air passenger transportation rates. The General Services Administration negotiates agreements with air carriers for transportation of passengers between specific city-pairs at rates substantially lower than those available to the general public. The primary purpose of these agreements is to provide economical air transportation to Federal employees on official business. These rates are also authorized for use by eligible contractors, if the airline has agreed to the arrangement.

51.301 Policy.

(a) If it is in the Government's interest, the contracting officer shall authorize eligible contractors to use the same Government discount air passenger transportation rates available to Federal employees traveling at Government expense.

(b) Government contractors are eligible to use these rates (if the air carrier has agreed to the arrangement) in performance of a cost-reimbursement contract or a contract with a cost-reimbursement line item for Government-authorized travel, or in other contracts as agreed to by specific air carriers.

(c) Contracting officers shall structure contracts with eligible contractors so as to allow contractors to use Government air passenger transportation rates to the maximum extent practicable in accordance with contractual provisions.

51.302 Procedures.

The contracting officer shall upon receipt of a list of eligible contractor employees, provide an agency letter of identification substantially as follows:

Agency Letter of Identification Required for Eligible Contractor use of GSA Contract Discount Fares

(To be typed on agency official letterhead.)

To: GSA Contract Airline

Subject: Office Travel of Government Contractor

(*Full name of traveler*), the bearer of this letter, is an employee of (*Company name*) which is under contract to this agency under contract (*contract number*). During the period of the contract, (*give dates*), the employee will be performing direct, reimbursable travel in performance of the contract. The employee is thereby eligible and authorized to use the GSA contract discount fares in accordance with your city-pairs contract with the General Services Administration.

(*Signature, title and telephone number of the contracting officer.*)

51.303 Contract Clause.

The contracting officer shall insert a clause substantially similar to that at

52.251–3, Government Discount Air Passenger Transportation Rates, in solicitations and contracts when either of the following situations is contemplated:

(a) A cost-reimbursement contract involving air travel by contractor employees;

(b) A contract with a cost-reimbursement line item for Government-authorized travel. The contracting officer may insert such a clause in other contracts involving air travel by contractor employees when advantageous to the Government. Agencies may supplement the clause to include applicable agency procedures.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.251–3 is added to read as follows:

52.251–3 Government Discount Air Passenger Transportation Rates.

As prescribed in 51.303, insert a clause substantially as follows in solicitations and contracts:

Government Discount Air Passenger Transportation Rates (Mar 1987)

(a) To the maximum extent practicable consistent with travel requirements, the contractor agrees to use the reduced air transportation rates and services provided through available Government discount air fares for bona-fide employees' travel that is otherwise reimbursable as a direct cost pursuant to this contract when use of such rates results in the lowest overall cost. The contractor shall submit requests, including pertinent information, for specific authorization to use these rates to the contracting officer (see FAR 51.302).

(b) Nothing in this clause shall authorize transportation or services which are not otherwise reimbursable under this contract. Nothing in this clause requires air carriers to make available to the contractor city-pair contract fares or other Government discount fares.

(End of clause)

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federal register

Tuesday
March 24, 1987

Part VI

Department of Education

34 CFR Part 761

Leadership in Educational Administration Development Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 761

Leadership in Educational Administration Development Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education (the Secretary) issues final regulations governing the Leadership in Educational Administration Development (LEAD) program. The LEAD Program assists in the establishment or operation of technical assistance centers in each State to promote the development of leadership skills in elementary and secondary school administrators.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Hunter Moorman, Department of Education, Office of Educational Research and Improvement, Programs for the Improvement of Practice, 555 New Jersey Avenue, NW., Washington, DC 20208. Telephone: (202) 357–6116.

SUPPLEMENTARY INFORMATION:

Background

The Leadership in Educational Administration Development Act was originally enacted as title IX of the Human Services Reauthorization Act of 1984, Pub. L. 98–558. The Act was designed to provide assistance to eligible parties to establish technical assistance centers in each State to upgrade the skills of elementary and secondary school administrators.

Significant Differences Between the NPRM and These Final Regulations

On September 18, 1986, the Secretary published a notice of proposed rulemaking for the Leadership in Educational Administration Development (LEAD) Program in the **Federal Register** (51 FR 33218).

During the period between the notice of proposed rulemaking and publication of these final regulations, Congress passed two legislative measures that amended, repealed, and re-enacted the Leadership in Educational Administration Development Act. While the intervening legislation does not call for changes in the basic structure of the final regulations, it does have direct consequences for Federal sponsorship of centers that might be located in the District of Columbia and other non-States, with respect to fiscal year 1986 and 1987 appropriated funds.

Specifically, Congress directed the Secretary to make fiscal year 1986 and 1987 funds available for establishment or operation of a technical assistance center in the District of Columbia. (*See* Appropriations Act, 1987, entitled "Making Continuing Appropriations for Fiscal Year 1987," Pub. L. 99–500.) Congress did not provide the Secretary with authority to make fiscal year 1986 funds available for centers located in Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. Although the recently enacted "Higher Education Amendments of 1986," Pub. L. 99–498, would authorize the Secretary to provide funding for centers located in those non-States, the Secretary's review of this legislation as well as the legislative directives in the 1987 Appropriation Act (Pub. L. 99–500) indicates that fiscal year 1987 funds are not available for non-States, except the District of Columbia.

Summary of Comments and Responses

Thirteen letters were received during the public comment period. The following is a summary of the public comments received on the proposed regulations published in the **Federal Register** on September 18, 1986 (51 FR 33218), and the Secretary's response to those comments.

General Issues

Comment. One commenter stated that the scope of LEAD center services is excellent. The commenter further stated that the modest amounts of money available would seem to make it imperative for centers to concentrate on a limited number of services rather than on the entire list.

Response. As provided in § 761.11(b), applicants may choose how best to allocate resources to services, including allocation of minimal or no funds to some services. No change is made.

Comment. One commenter expressed support for the emphasis on delivery of consultative services on site and for the inclusion of new as well as practicing administrators as prospective recipients of services.

Response. No change is made.

Comment. One commenter strongly endorsed the provision for private sector involvement but cautioned that there are relatively few "top flight" leadership development experts in the private sector and expressed concern that their costs could drain funds from other needed project activities.

Response. The Department believes that it should be left to the applicants how best to involve private sector experts and to allocate project funds. No change is made.

Comment. Three commenters addressed the regulations' emphasis on minorities and women. Two of the commenters asked that increased attention be given to the needs and participation of minority group members and women. A third expressed staisfaction with the amount of emphasis given the topic in the regulations.

Response. Provisions in §§ 761.11(a)(3) and 761.31(f)(4) implement the intent of Congress regarding emphasis on minority and women administrators contained in the LEAD Act. In the Secretary's opinion, these regulatory provisions provide adequate emphasis to this issue. The Secretary believes that the emphasis on training of minority group members and women contained in the review criterion at § 761.31(f) aptly focuses on the important relationship between training and access to administrative positions and will provide suitable incentives to applicants for addressing the needs of women and minority group members. While other factors such as university admissions and district selection practices also affect the access of qualified women and minority group members to administrative positions in education, they lie beyond the scope of the LEAD program's emphasis on training and technical assistance.

Section 761.33 What funding limitations apply to awards under this program?

Comment. One commenter noted that the three-year program period provided in the regulations was short. The commenter also noted that the possibility of one three-year extension may allow some centers to become well-established. Another commenter asked that the three-year period be extended to five years.

Response. The three-year period for a grant as well as the one-time three-year extension are statutory limitations which cannot be enlarged by the Secretary. No change is made.

Comment. One commenter encouraged the Department to seek increased funding for the LEAD program so that, rather than reduced support in years two and three, additional amounts could be made available to projects each year.

Response. Appropriation levels for the program are determined by Congress. In fact, the regulations do not provide for

reduction in funding for the first three-year period of support. As noted in § 761.33, the amount of Federal funds provided during an extension grant period will be reduced to a level of one-half the amount of the original grant. This reduction is based not upon availability of appropriated funds but on an explicit statutory condition intended to promote long-term support for leadership development activities in the States following termination of Federal funding.

Comment. One commenter endorsed the provision that equal amounts of funds be made available for centers in each State and expressed uncertainty about the wisdom of requiring matching funds, listing several advantages and disadvantages to the requirement.

Response. Distribution of funds and the requirement for matching funds are provided for by the statute. No change is made.

Section 761.4 What definitions apply to this program?

Comment. One commenter expressed concern that the term "technical assistance center" in proposed § 761.4(b) did not adequately describe LEAD projects and the breadth of services they are intended to provide. The commenter suggested as an alternative the term "leadership development center." Another commenter suggested that recipients of LEAD funds be authorized to adopt the designation "LEAD Academy."

Response. The term "technical assistance center" used in the regulations is taken from the Act. The Secretary will not object, however, to a grantee's using some other phrase to describe its project. The Secretary will also authorize the use of a project title incorporating the word "LEAD"—such as "LEAD Academy" or "LEAD Center"—conveying this authorization in the grant award documents for each LEAD project. No change is made.

Comment. One commenter noted with approval that the definition of "school administrator" in proposed § 761.4(b) made new administrators eligible for project services. This commenter also expressed the wish that the term might be interpreted to include various officials with important but "indirect" administrative responsibilities, such as government relations specialists and public relations experts.

Response. The LEAD program is designed to upgrade skills of those who exercise supervision and control over the provision of an elementary or secondary education program and those who participate in educational, training or developmental programs in preparation for those responsibilities. In the case of borderline positions beyond the roles of superintendents, principals, and assistant principals explicitly noted in the Act, more precise interpretations of the term will have to be made in the context of individual grant applications. No change is made.

Comment. Several commenters objected to the Secretary's definition of the term "State" in that it did not embrace non-States such as the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands. Many of these commenters urged the Secretary to borrow statutory definitions of the term "State" from title I of the Human Services Reauthorization Act (relating to the Head Start Program administered by the Secretary of Health and Human Services), from section 595 of the Education Consolidation and Improvement Act of 1981 (relating to certain elementary and secondary education programs), or from section 104 of the Department of Education Organization Act (relating to creation of the Department of Education).

Response. A change has been made based on intervening legislation enacted by Congress in the Appropriation Act, 1987, entitled "Making Continuing Appropriations for Fiscal Year 1987," Pub. L. 99–500. This legislation amends the Leadership in Educational Administration Development Act, as originally enacted in Title IX of the Human Services Reauthorization Act of 1984, to provide expressly that "the term 'State' includes the 50 States and the District of Columbia." This legislation also requires that the Secretary give retroactive effect to the statutory definition of the term "State" so that appropriations for fiscal year 1986 (which will be used to fund the first set of awards under the LEAD program) are available for sponsorship of a LEAD Center in the District of Columbia. Accordingly, the final regulations (§ 761.4(b) and Note) define State in accord with this legislation.

The legislative amendment in the Appropriation Act, 1987, corroborates the Secretary's original view that—absent a statutory definition of the term "State" that would embrace non-States—he can not sponsor technical assistance centers in non-States. Moreover, as several of the commenters pointed out, re-enactment of Leadership in Educational Administration Development Act as part of Title V of the Higher Education Act of 1965 (*See* Higher Education Amendments of 1986, Pub. L. 99–498) would eventually authorize the Secretary to fund technical assistance centers in all traditional non-States because the definition of the term "State" in section 1201(b) of the Higher Education Act would be applicable to the LEAD program. (Section 1201(b) of the Act provides as follows: "The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.") This additional legislation does not affect awards for fiscal year 1986, and the Secretary's review of both the Appropriation Act, 1987 and the Higher Education Amendments of 1986 indicates that fiscal year 1987 funds also are not available for such non-States, excluding the District of Columbia.

The Secretary has transmitted to Congress a legislative amendment to redefine State, for the purposes of this program, to include the 50 States, the District of Columbia, and Puerto Rico. The Secretary does not believe that other outlying areas should be included in the definition because grants made to them under this program would be disproportionately large compared with their relative size. Also, under Chapter II of the ECIA and consolidated grant authority under Pub. L. 95–134, these entities receive Federal funds that can be used for administrator training activities.

Section 761.31 What selection criteria does the Secretary use to evaluate an application under this program?

Comment. A commenter suggested allocating 50 points rather than 20 points to the selection criterion in proposed § 761.31(f), "Potential for enhancing the leadership skills of school administrators," and redistributing the remaining points among the other criteria. The commenter stated that this criterion was absolutely critical and no proposal should be accepted without receiving a top rating in this area.

Response. In the Secretary's opinion, the proposed distribution of points best reflects the relative importance of key project elements as determined by his reading of the statute and by the Department's experience with program administration. Although a project's potential for enhancing leadership skills is indeed very important, (and is accordingly allocated one-fifth of the total points), other characteristics of a project, such as its ability actually to deliver the services it proposes and to deliver them in such a way that the future leadership skills of administrators across the State are in fact improved, are also very important. To provide fully

one-half the available points for "Potential to enhance leadership skills" would so diminish the emphasis on other elements as to create the risk of funding a project with an excellent leadership development program but inadequate means of carrying it out. No change is made.

Section 761.32 What special considerations may the Secretary use in selecting an application for funding?

Comment. Noting that the amount available per state under FY 1986 and FY 1987 appropriations was less than the $150,000 amount provided under the LEAD statute, one commenter expressed concern that the Secretary might use future funds in excess of the initial grant amount for "special considerations" as provided in § 761.32, rather than to allocate the full amount up to $150,000 to each center in each State. The commenter argued that funds should be allocated for "special considerations" only when and if the Secretary had satisfied the requirement to establish a fully funded center in each State and each awardee had received the full request for funds.

Response. One purpose of § 761.32 is to allow the Secretary to take into account special considerations in determining the order of awards among competitive applicants within a State. The Secretary does not intend to use more than a prorata share per award for "special considerations." The Secretary does intend to take such factors as innovation, fairness and equity into consideration where appropriate in deciding upon the order of selection among the competitors for any one center. The other purpose of § 761.32 is to guide allocation of funds that may be "excess" by virtue of such circumstances as the absence of competitors in any State, lack of applicants rated high enough to merit the award of funds in a State, or project budget requests for lesser amounts that are available in each State. In those circumstances, the Secretary could take the "special considerations" noted in § 761.32 into account in determining the order for selection of awards in each State. No change is made.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide an early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in the document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 761

Education, Leadership skills, Grant programs education, Reporting and recordkeeping requirements, Training centers.

(Catalog of Federal Domestic Assistance number 84.178—Leadership in Educational Administration Development)

Dated: March 20, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 761 to read as follows:

PART 761—LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT PROGRAM

Subpart A—General

Sec.

Subpart B—What Services Does the Secretary Support Under This Program?

Subpart C—[Reserved]

Subpart D—How Does the Secretary Select an Applicant for Funding?

Sec.

Subpart E—What Conditions Must be Met by a Grantee?

Authority: 20 U.S.C. 1109 to 1109d, unless otherwise noted.

Subpart A—General

§ 761.1 What is the Leadership in Educational Administration Development Program?

The Leadership in Educational Administration Development (LEAD) Program provides financial assistance to eligible organizations that establish or operate technical assistance centers. The technical assistance centers funded under this program must promote development of certain leadership skills for school administrators, including attention to increasing access for minorities and women to administrative positions.

(Authority: 20 U.S.C. 1109)

§ 761.2 Who is eligible to apply for assistance under this program?

Local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, nonprofit organizations, or consortia of those entities are eligible to apply for assistance under this program.

(Authority: 20 U.S.C. 1109b)

§ 761.3 What regulations apply to this program?

The following regulations apply to the Leadership in Educational Administration Development Program:

(a) The Educational Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Departmental Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 761.

(Authority: 20 U.S.C. 1109)

§ 761.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77.1:

Applicant
Application
Award
Budget period
Department
EDGAR
Equipment
Facilities
Local educational agency (LEA)
Nonprofit
Project
Private
Public
Reporting and recordkeeping requirement
Secretary
State educational agency (SEA)

(b) *Other definitions that apply to this part.* The following definitions also apply to this part:

"Consortium" means an association or partnership of eligible parties formed for the establishment or operation of a technical assistance center.

(Authority: 20 U.S.C. 1109)

"Institution of higher education" means a public or private nonprofit institution of higher education as defined in 34 CFR 668.2.

"Leadership skills" means such skills as managerial, executive, administrative, evaluative, communication and disciplinary, and related techniques that enhance an individual's ability to carry out the functions and duties of a school administrator.

"School administrator" means a principal, assistant principal, district superintendent, and other local public or private school or district administrator who exercises supervision and control over the provision of an elementary or secondary education program, including its content, direction, support facilities and related elements. The term also includes an individual who participates in educational, training, or developmental programs in preparation for responsibility as an elementary or secondary school administrator.

(Authority: 20 U.S.C. 1109d)

"State" means a State of the United States of America, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"Technical assistant center" means an organization maintained by the recipient of assistance under the LEAD program to provide services, including training, to others for the purpose of enhancing the leadership skills of elementary and secondary school administrators in a State.

(Authority: 20 U.S.C. 1109, 1109d)

Note: For the award of fiscal year 1986 and 1987 funds under this program, the Appropriations Act, 1987, entitled "Making Continuing Appropriations for Fiscal Year 1987," Pub. L. 99-500 requires that the definition of the term "State" be restricted to include only the District of Columbia in addition to the several States of the Union.

Subpart B—What Services Does the Secretary Support Under This Program?

§ 761.10 What assistance does the Secretary provide under this program?

The Secretary provides financial assistance in the form of grants to eligible organizations that establish or operate a technical assistance center.

(Authority: 20 U.S.C. 1109, 31 U.S.C. 6304)

§ 761.11 What services are provided by a technical assistance center funded under the LEAD program?

(a) The Secretary funds technical assistance centers to provide the following services to school administrators in the State served by the center:

(1) Collecting information on school leadership skills.

(2) Assessing the leadership skills of school administrators that participate in programs sponsored by the center based on criteria related to effective leadership.

(3) Conducting training programs on leadership skills for new school administrators and for practicing school administrators, with particular emphasis on recruiting women and minority administrators to participate in those programs.

(4) Maintaining consultative programs that provide advice and guidance on leadership skills to clients at sites within school districts, as well as at the center.

(5) Establishing and maintaining training curricula and instructional materials on leadership skills, drawing on expertise in business and industry, educational institutions, civilian and military governmental agencies, and existing effective schools.

(6) Initiating programs that promote the improvement of leadership skills by—

(i) Making available the services of executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(ii) Providing school administrators with internships in business, industry, and effective school districts.

(7) Disseminating information on leadership skills associated with effective schools.

(8) Establishing model projects for administrative leadership development that draw upon the most reliable and valid principles of effective educational administration.

(b) The applicant shall indicate in its application how the resources for which it is applying will be allocated among each of the services in paragraph (a) of this section, based upon the applicant's assessment of the needs of school administrators within its State and of alternative training programs available. In selecting applicants, the Secretary considers the applicant's justification as to why each service would receive the level of support proposed, including reasons for seeking minimal or no Federal funding for any service in paragraph(a) of this section.

(Authority: 20 U.S.C. 1109b)

Subpart C—[Reserved]

Subpart D—How does the Secretary Select an Applicant for Funding?

§ 761.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under this program on the basis of the selection criteria in § 761.31.

(b) The Secretary scores an application based on a 100-point scale.

(c) The maximum number of points for each criterion is indicated in parentheses after the heading of the criterion.

(Authority: 20 U.S.C. 1109)

§ 761.31 What selection criteria does the Secretary use to evaluate an application under this program?

The Secretary uses the following criteria in evaluating an application—

(a) *Plan of operation.* (10 Points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The extent to which the proposed allocation of resources among the services listed in § 761.11(a) will address

the needs of school administrators within the State;

(5) How well the project builds upon, complements or otherwise takes into account other related administrator leadership activities in the State; and

(6) The quality of the applicant's plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (20 Points)

(1) The Secretary reviews each application to determination the quality of key personnel, including but not restricted to consultants and other contractors, the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project; and

(iii) The time that these key personnel will commit to the project.

(2) To determine the qualifications of these key personnel, the Secretary considers—

(i) Experience, training, and professional productivity, in fields related to the objectives of the project; and

(ii) Any other qualifications, including credentials relating to the development of human relations skills, that pertain to the quality of the project.

(c) *Budget and cost effectiveness.* (10 Points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) The project supplements other related leadership development activities within the State; and

(3) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 Points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The applicants design for evaluation specifies the relationship of program goals and activities to anticipated outcomes as well as how the outcomes would be assessed; and

(2) The applicant's methods of evaluation are appropriate to the project, and to the extent possible, are objective and produce data that are quantifiable, as well as valid and relevant.

Cross-reference:—See 34 CFR 75.590 Evaluation by the grantee.

(e) *Adequacy of organizational resources and commitment.* (20 Points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project and of organizational commitment to carrying out the activities of the technical assistance center, demonstrated through—

(1) Facilities, equipment, and supplies;

(2) Matching funds for the proposed project in cash or in kind at least equal in amount to the amount of Federal funds available to a grant under this program;

(3) Plans and commitment to continue to operate the technical assistance center activities after expiration of Federal funding provided under this program; and

(4) Establishment of a policy advisory committee (including but not limited to members of the business community, private foundations, and local and State educational agencies) representative of groups whose support, guidance, and commitment will promote both accomplishment of the project's goals and continuation of the project after Federal funding terminates.

(Authority: 20 U.S.C. 1109c)

(f) *Potential for enhancing the leadership skills of school administrators.* (20 Points) The Secretary reviews each application to determine the potential of the project for enhancing the leadership skills of school administrators, with particular attention to—

(1) The application of information on leadership skill development and executive performance, including but not restricted to information identified by graduate schools of management and information gained from research or knowledge of effective practice, to the design of the project's leadership development activities;

(2) The identification of leadership skills and knowledge pertinent to the needs of school administrators to serve as the focus of project activities;

(3) The extent to which proposed activities will improve leadership skills for project participants;

(4) The extent to which proposed training activities will contribute to increasing access of women and minorities to administrative positions; and

(5) The nature of human relations skills to be developed, their relationship to the problems school administrators face, and the manner in which they will be developed.

(Authority: 20 U.S.C. 1109, 1109b, and 1109c)

(g) *Organizational arrangements and capacity.* (15 Points) The Secretary reviews each application to determine the extent to which the applicant's organizational arrangements and capacity—

(1) Reveal a record of successful organizational performance on previous activities similar in nature or related to proposed project services;

(2) Are likely to elicit commitment to project goals and services from intended participants and target groups;

(3) Make available to the project the organizational expertise and combinations of staff and organizational resources required for successful provision of project services;

(4) Involve private sector managers and executives in the conduct of the project; and

(5) Ensure that project staff have access to resources and activities needed in developing and providing the project services.

(Authority: 20 U.S.C. 1109, 1109b, and 1109c)

(Approved by the Office of Management and Budget under control number 1850–0572)

§ 761.32 What special considerations may the Secretary use in selecting an application for funding?

In determining the order of selection of new grants under this program, the Secretary may take into consideration the following:

(a) The extent to which an application will enhance the diversity of activities or projects funded under a particular competition.

(b) The need to distribute funds for projects on a fair and equitable basis.

(Authority: 20 U.S.C. 1109)

§ 761.33 What funding limitations apply to awards under this program?

(a) Grants under this program are for a term of three years.

(b) Grants are not renewable, except that a one-time three-year extension may be provided by the Secretary if the grantee maintains the same level of services it provided under the original grant.

(c) If an extension is granted, the Secretary issues a supplemental grant equal to one-half of the amount of the original award provided to the grantee.

(d) Subject to the availability of funds, of the amount appropriated for any fiscal year, the Secretary provides that not less than $150,000 for each State will be availaible from which to award a grant, in an amount consistent with the intended recipient's application and the provisions of paragraph (e) of this section, to establish or operate a technical assistance center in each State.

(e) The Secretary provides funds for eacn award in an amount not to exceed

the recipient's contribution of matching funds in cash or in kind.

(Authority: 20 U.S.C. 1109a, 1109c)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 761.40 What restrictions exist on the use of funds awarded under this program?

(a) A technical assistance center funded under this program shall make its services available to school administrators from any of the public and private educational agencies, including local educational agencies, nonpublic school districts, and independent schools, located within the State served by that center.

(b) Funds made available through an award under this program may not be used to—

(1) Supplant funds already used to support services and activities included in a technical assistance center's program;

(2) Purchase equipment; or

(3) Construct, repair, remodel, or alter facilities or sites for use in projects funded under this program.

(c) The Secretary may restrict the amount of funds used to pay stipends for educational personnel to participate in training activities.

(Authority: 20 U.S.C. 1109, 1109c)

§ 761.41 What requirements must be met by a grantee?

A technical assistance center funded under this program shall do the following:

(a) Involve private sector managers and executives in the conduct of the center's program.

(b) Provide matching funds for the project in cash or in kind at least equal in amount to the amount of funds awarded under the grant.

(c) Demonstrate a commitment to continue to provide the services and activities of the center after the expiration of Federal funding under this program.

(d) Establish a policy advisory committee including but not limited to members of the business community, private foundations, and local and State educational agencies.

(e) Describe the nature of human relations skills to be developed, their relationship to problems school administrators face, the manner in which they will be developed, and credentials of project staff who may be responsible for developing these skills.

(f) Conduct an evaluation of the project.

(Authority: 20 U.S.C. 1109c)

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Tuesday
March 24, 1987

Part VII

General Services Administration

41 CFR Part 101-38

Official Use of Government Passenger Carriers Between Residence and Place of Employment; Proposed Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-38

Official Use of Government Passenger Carriers Between Residence and Place of Employment

AGENCY: Federal Supply Service, GSA.

ACTION: Proposed rule.

SUMMARY: This regulation will establish policy, agency responsibilities, and reporting requirements concerning Official Use of Government Passenger Carriers Between Residence and Place of Employment and will provide guidance concerning the implementation of Pub. L. 99-550, which amends section 1344 of title 31, United States Code.

DATE: Comments must be submitted on or before May 26, 1987.

ADDRESS: Comments should be addressed to: General Services Administration (FBF), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Frisbee, Fleet Management Division, 703-557-1273.

SUPPLEMENTARY INFORMATION: This regulation has been developed in conjunction with an interagency working group of Federal vehicle fleet managers and as such, reflects their views and comments.

During their review of this regulation, agencies should be aware of its possible income tax impact on their employees. Additional information is available in the Internal Revenue Service tax regulations, 26 CFR 1.61, Computation of Taxable Income.

The General Services Administration has determined that this 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 101-38

Government property management, motor vehicles.

The Authority citation for part 101-38 reads as follows:

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

1. Purpose

This regulation will establish policy and procedures to implement subsection 1344(e)(1) of Title 31, United States Code.

2. Comments

Comments must be submitted on or before May 26, 197 and should be addressed to: General Services Administration (FBF), Washington, DC 20406.

3. Applicability

This regulation will apply to all Federal agencies as defined in subparagraph 5a.

4. Background

a. In 1946, Congress passed the Administrative Expenses Act (60 Stat. 806), which prohibited home-to-work transportation of executive branch employees in Government passenger vehicles. Exceptions were made for the President, heads of executive departments, ambassadors and other principal diplomatic officials, medical officers on outpatient service, and officers and employees engaged in field work.

b. More recently, Congress showed increasing concern that broad interpretations of the home-to-work exceptions of 31 U.S.C. 1344 by Federal agencies were resulting in confusion and abuse of home-to-work transportation. At the request of Congress, the General Accounting Office (GAO) reviewed the use of Government vehicles for home-to-work transportation and issued a report in September 1985, which indicated that the provisions of 31 U.S.C. 1344 were not being strictly followed.

c. In September 1985, the House Government Operations Committee held a hearing during which testimony was provided on the use of Government vehicles for home-to-work transportation. Based upon that testimony, the GAO report, and discussions with representatives from the White House, Office of Management and Budget (OMB), and various Federal agencies, Congress enacted H.R. 3614. That legislation provided strict guidelines on the use of passenger carriers used to provide home-to-work transportation. The President signed the bill into law (Pub. L. 99-550) on October 27, 1986.

5. Definitions

For purposes of this regulation, the following definitions shall apply:

a. "Federal agency" means:

(1) A department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

(2) An executive department (as such term is defined in section 101 of Title 5);

(3) A military department (as such term is defined in section 102 of Title 5);

(4) A Government corporation (as such term is defined in section 103(1) of Title 5);

(5) A Government controlled corporation (as such term is defined in section 103(a) of Title 5);

(6) A mixed-ownership Government corporation (as such term is defined in 9101(2) of Title 31);

(7) Any establishment in the executive branch of the Government (including the Executive Office of the President);

(8) Any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of Title 44);

(9) The Smithsonian Institution;

(10) Any nonappropriated fund instrumentality of the United States; and

(11) The United States Postal Service.

b. "Passenger carrier" means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or is in custody of the Government by other means, such as forfeiture or confiscation.

c. "Employee" means a Federal officer or employee of a Federal agency, as defined in subparagraph 5a, including an officer or enlisted member of the Armed Forces.

d. "Residence" means the primary place where an employee resides while commuting to a place of employment. The term "residence" is not synonymous with domicile as that term is used for taxation or other purposes, nor does this regulation affect the provisions set forth in the Federal Travel Regulations for employees on temporary duty (TDY) away from their designated or regular place of employment.

e. "Place of employment" means any place where an employee performs his/her business, trade, or occupation, even if the employee is there only for a short period of time. The term includes, but is not limited to, an official duty station, home base, headquarters, or any place where an employee is assigned to work.

f. "Field work" means work performed by an employee whose job requires the employee's presence at various locations that are at a significant distance from the employee's place of employment (itinerant-type travel). The designation of a work site as a "field office" does not, of itself, permit the use of a Government passenger carrier for

home-to-work transportation. (See par. 11.)

g. "Clear and present danger" means those highly unusual circumstances which exist whenever: (1) The danger is (a) real, not imaginative, and (b) immediate or imminent, not merely potential; and (2) a showing is made that the use of a Government passenger carrier would provide protection not otherwise available.

h. "Emergency" means those circumstances which exist whenever there is an immediate, unforeseeable, temporary need to provide home-to-work transportation for those employees who are critical to the performance of the agency's mission.

i. "Compelling operational considerations" mean those circumstances with an element of importance which is essential to the successful accomplishment of the agency's mission or is necessary for an agency's efficient operation.

6. Policy

a. Each Federal agency shall ensure that the Government passenger carriers operated by its employees are used for official purposes only; i.e., to further the mission of the agency.

b. Each Federal agency shall limit the use of Government passenger carriers between an employee's residence and his/her place of employment to: (1) Those persons, including the President, the Vice-President, and other principal Federal officials and their designees, as provided in subsections 1344(b)(1) through 1344(b)(7) of Title 31; (2) those persons engaged in field work, as defined in subparagraph 5f; or (3) those uses essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties.

c. Other than those uses provided for in subparagraph 6b, a Federal agency shall only authorize the use of a Government passenger carrier for home-to-work transportation when: (1) Such use is in response to highly unusual circumstances which present a clear and present danger; (2) an emergency exists; or (3) other compelling operational considerations make such transportation essential to the conduct of official business.

d. The comfort and convenience of an employee shall not be considered sufficient justification for an agency to authorize home-to-work transportation under subparagraphs 6b and 6c.

e. Each Federal agency shall consider the location of the employee's residence prior to authorizing home-to-work transportation. Such transportation shall be authorized only within the usual commuting area for the locale of the employee's place of employment.

f. An employee authorized home-to-work transportation may elect to share space in a Government passenger carrier with other employees on a space available basis, if such sharing is consistent with his/her agency's policy.

g. The head of each Federal agency shall authorize the use of home-to-work transportation only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

7. Scope

a. This regulation applies to the use of home-to-work transportation for employees on normal duty (non-travel) status performing assigned duties at their place of employment. This regulation does not apply to the use of a Government passenger carrier when used in conjunction with official travel to perform temporary duty assignments away from a designated or regular place of employment.

b. This regulation does not apply to those employees essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties, when those employees have been so designated in writing by the head of a Federal agency. Each Federal agency which uses Government passenger carriers to perform such duties or services should issue guidance concerning the use of home-to-work transportation by its employees.

8. GSA Responsibility

The General Services Administration (GSA), in consultation with OMB, GAO, and the Administrative Office of the United States Courts, is required to issue regulations implementing specific provisions of Pub. L. 99–550. This regulation will be issued to fulfill that responsibility.

9. Agency Responsibilities

a. Each Federal agency shall maintain logs or other records necessary to establish that any home-to-work transportation was used for official purposes. The logs or other records should be easily accessible for audit and should contain the following information: (1) Name and title of employee (or other identification, if confidential) using the passenger carrier; (2) name and title of person authorizing use; (3) passenger carrier identification; (4) date; (5) location; (6) duration; and (7) circumstances requiring home-to-work transportation.

b. The head of a Federal agency shall determine which employees are eligible to use home-to-work transportation in accordance with the definition of field work in subparagraph 5f and the guidance contained in paragraph 11. That determination must be in writing and must be accomplished as soon as practicable, but not later than 30 days from the effective date of the issuance of the regulation as a final rule, and annually thereafter.

c. When circumstances described in subparagraph 6c apply, the head of a Federal agency shall approve a written determination, containing the following information: (1) Name (or other identification, if confidential) and title of the employee; (2) the reason for the determination; and (3) the anticipated duration of the authorization. The determination must be submitted to the Congress in accordance with procedures set forth in paragraph 10, and also must be easily available within the agency for audit. The authority to approve a determination may not be delegated. The initial duration of a determination shall not exceed 15 calendar days. Should the applicable circumstances continue, the head of a Federal agency may approve a subsequent determination of not more than 90 additional calendar days. If at the end of the subsequent determination, the circumstances continue to exist, the head of the Federal agency may authorize an additional extension of 90 calendar days. This process may continue as long as required by the circumstances. Additional guidance concerning determinations is contained in paragraph 11.

10. Reports

Each initial determination prepared under subparagraph 9c shall be submitted to Congress promptly, but not later than 30 calendar days after approval. An agency may consolidate any subsequent determinations into a single report and submit them quarterly to each committee. The reports shall be sent to:

Chairman, Committee on Governmental Affairs, United States Senate, Suite SD–340, Dirksen Senate Office Building, Washington, DC 20510

Chairman, Committee of Government Operations, United States House of Representatives, Suite 2157, Rayburn House Office Building, Washington, DC 20515

11. Guidance for home-to-work transportation

a. House Committee Report No. 99–451, To Restrict the Use of Government

Vehicles, dated December 19, 1985, clearly indicates the intent of the Committee on Government Operations to eliminate abuse of home-to-work transportation. The Report notes that:

"The provision for 'field work' is meant to cover an employee of an executive agency whose job requires the employee's presence at various locations that are at a distance from the [employee's] place of employment. . . . Examples of such employees include, but are not limited to, mine inspectors, meat inspectors, and certain other law enforcement officers, whose jobs require travel to several locations during the course of a workday. However, the field work exception may not be used (1) when the [employee's] workday begins at his or her official government duty station, or (2) when the [employee] normally commutes to a fixed location, however far removed from his or her official duty station (for example, auditors or investigators assigned to a defense contractor plant). Although their daily work station is not located in a government office, these [employees] are not performing 'field work'. . . . Like all government employees, [employees] working in a 'field office' are responsible for their own commuting costs.

The House Report also states the Committee's intent to allow home-to-work transportation for medical officers on outpatient service. The guidelines containd in the Report should provide the basis for an agency to determine which of their employees are to be authorized home-to-work transportation.

b. Additional examples of employees who may perform field work involving itinerant travel include, but are not limited to, quality assurance inspectors, construction inspectors, customs inspectors, dairy inspectors, revenue officers, compliance investigators, and personnel background investigators. The assignment of an employee to such a position does not, of itself, entitle an employee to receive daily home-to-work transportation. When authorized, such transportation should be provided only on days when the employee actually performs field work and then only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

c. Agencies have provided numerous examples of situations where it is more cost-effective to the Government to provide an employee a vehicle for home-to-work transportation rather than have the employee travel long distances to pick up a vehicle and then turn around and drive back in the same direction to perform his/her job. In those situations, if practicable, agencies should consider basing the vehicle at a Government facility located near the employee's job site. If such a solution is not feasible, an agency must then decide if the use of the vehicle would qualify under the compelling operational considerations definition. Home-to-work transportation in such cases may be approved only when it is essential to the conduct of official business or if other available alternatives would involve substantial cost to the Government or expenditure of substantial employee time.

d. Instances may occur when an employee, by the nature of his/her job, is designated as being authorized home-to-work transportation under the field work provision; however, circumstances may require that field work only be performed on an intermittent basis. In those instances, the agency shall establish procedures to ensure that a Government passenger carrier is used only when field work is actually performed.

e. In making field work determinations under subpar. 9b, an agency head may elect to designate positions rather than individual names, especially in positions where rapid turnover occurs. The determination should contain sufficient information, such as the job title, number, and operational level where the work is to be performed (i.e., five recruiter personnel or positions at the Detroit Army Recruiting Battalion) to satisfy an audit, if necessary.

f. Several agencies have indicated that hazardous weather conditions, natural disasters, or other emergency situations may arise with no warning. Agencies such as the Corps of Engineers, Tennessee Valley Authority, and Bonneville Power Administration may wish to designate individuals or positions within their organizations to respond to such situations. The head of the agency could then approve a contingency determination to be used as necessary, with further information on the specific emergency situations to be provided to Congress in accordance with par. 9c as quickly as the facts become available.

12. Agency comments and assistance

Comments or inquiries concerning the impact of this proposed regulation should be submitted to the General Services Administration, Federal Supply Service (FBF), Washington, DC 20406, not later than 60 days after the publication date of the proposed rule, for consideration and possible incorporation into the final rule.

Dated: March 12, 1987.

R. Daniero,

Acting Commissioner, Federal Supply Service.

[FR Doc. 87-6514 Filed 3-23-87; 10:23 am]

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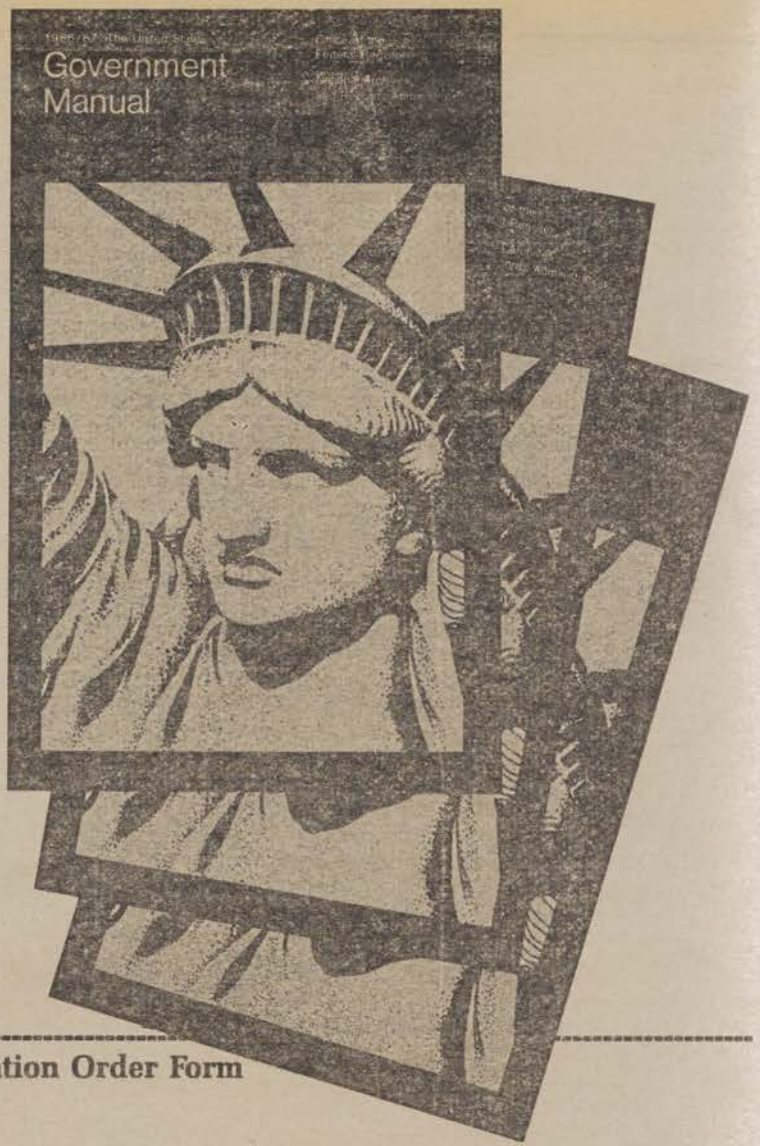

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