AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-18-88
Vol. 53 No. 201
Pages 40715-40864

federal register

Tuesday
October 18, 1988

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

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 53 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

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 3 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: November 4; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

Contents

Federal Register

Vol. 53, No. 201

Tuesday, October 18, 1988

Administrative Conference of the United States
NOTICES
Meetings:
Administration Committee, 40748

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
Eastern Ohio-Western Pennsylvania, 40733
NOTICES
Tobacco inspection and price supports; market designations:
Madison and Live Oak, FL, 40847
Madison and Stoneville, NC, 40847
Willamston and Robersonville, NC, 40847

Agriculture Department
See also Agricultural Marketing Service; Forest Service; Rural Electrification Administration
RULES
Crop insurance endorsements, etc.:
Sunflowers, 40717
Meat importation limitation; Australia and New Zealand, 40716

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

Centers for Disease Control
NOTICES
Meetings:
Vital and Health Statistics National Committee, 40771

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Thailand; correction, 40824

Comptroller of the Currency
RULES
National banks:
Lending limits—
Loan commitment treatment, 40720

Defense Department
See also Navy Department
NOTICES
Agency information collection activities under OMB review, 40752
Meetings:
Base Realignment and Closure Commission, 40752

Delaware River Basin Commission
NOTICES
Hearings, 40753

Economic Regulatory Administration
NOTICES
Electricity export and import authorizations, permits, etc.:
Rio Grande Electric Cooperative, Inc., 40756

Education Department
NOTICES
Agency information collection activities under OMB review, 40754
Grants and cooperative agreements; availability, etc.:
Cooperative education program, 40755
Grants; availability, etc.:
Bilingual education—
Transitional programs; correction, 40824

Employment and Training Administration
NOTICES
Adjustment assistance:
At-A-Glance, 40798
Burlington Industries Inc., 40797
Key Tronic Corp., 40798

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

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Kentucky, 40745
Tennessee, 40746
Pesticide programs:
Chlordimeform, food and feed additive tolerances revoked
Correction, 40824
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Chlordimeform
Correction, 40824
NOTICES
Meetings:
Biotechnology Science Advisory Committee, 40765
Pesticides; experimental use permits, etc.:
BASF Corp. et al.; correction, 40824
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 40824 (3 documents)
Water pollution control:
Clean Water Act Class I and II administrative penalty assessments, 40765

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 40821

Executive Office of the President
See Management and Budget Office; Presidential Documents; Trade Representative, Office of United States

Federal Aviation Administration
RULES
Air carriers certification and operations:
Airport certification, 40842
PROPOSED RULES
Jet routes; correction, 40825
Rulemaking petitions; summary and disposition, 40738

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Florida et al., 40730
Georgia, 40730
Massachussetts et al., 40731

Federal Energy Regulatory Commission
RULES
Public Utility Regulatory Policies Act:
Hydroelectric applicants seeking benefits for projects located at new dam or diversion; Electric Consumers Protection Act; implementation, 40722
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Ultrapower Inc., Rio Bravo Poso, et al., 40757
Natural gas certificate filings:
United Gas Pipe Line Co. et al., 40758
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 40760
Arkla Energy Resources, 40760
CNG Transmission Corp., 40760
Equitrans, Inc., 40763
Natural Gas Pipeline Co. of America, 40761
Northern Natural Gas Co., 40761
(2 documents)
Pennsylvania Hydroelectric Development Corp., 40762
Sabine Pipe Line Co., 40762
Wisconsin Valley Improvement Co., 40762

Federal Home Loan Mortgage Corporation
NOTICES
Meetings; Sunshine Act, 40821

Federal Maritime Commission
NOTICES
Agreements filed, etc., 40766
(2 documents)

Federal Mediation and Conciliation Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Labor-management cooperation program, 40766–40769
(2 documents)

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 40821

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
Chemdex, Inc., 40728
Fermenta Animal Health Co., 40726
Salsbury Laboratory, Inc., 40729
Human drugs:
Antibiotic drugs—
Gentamicin sulfate-prednisolone acetate ophthalmic suspension, 40725
Medical devices
Ophthalmic devices—
Premarket notification exemptions; correction, 40825
NOTICES
Human drugs:
Export applications—
Adalat PA-20 (nifedipine), 40771

Forest Service
RULES
Administration:
Appeal of decisions—
National Forest System; correction, 40729
PROPOSED RULES
Land uses:
Ski area permits, 40739
NOTICES
Environmental statements; availability, etc.:
Chugach National Forest, AK, 40748
Shasta-Trinity National Forests, CA, 40748

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service

Health Care Financing Administration
NOTICES
Medicare:
Home health agency costs per visit; schedule of limits, 40771

Health Resources and Services Administration
See Public Health Service

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 40763

Inter-American Foundation
NOTICES
Meetings; Sunshine Act, 40821

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

International Trade Administration
NOTICES
Export trade certificates of review, 40750

Interstate Commerce Commission
NOTICES
Agency information collection activities under OMB review, 40797
Railroad services abandonment:
Southern Railway, 40797

Justice Department
See also Parole Commission
NOTICES
Pollution control; consent judgments:
General Battery Corp., 40797

Labor Department
See Employment and Training Administration; Mine Safety and Health Administration

Land Management Bureau
NOTICES
Meetings:
California Desert District Advisory Council, 40789

Management and Budget Office
NOTICES
Budget rescisssions and deferrals:
Cumulative report, 40856

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Golden Oak Mining Co., 40799
Greenwich Collieries, 40799
Jim Walter Resources, Inc., 40800
Old Ben Coal Co., 40800
Quarto Mining Co., 40800

Minority Business Development Agency
NOTICES
Business development center program applications:
Illinois, 40751

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts and Artifacts Indemnity Panel, 40801
Humanities Panel, 40801
(2 documents)

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Institutes of Health
NOTICES
Meetings:
Animal Resources Review Committee, 40788

National Oceanic and Atmospheric Administration
NOTICES
Fishery management councils; hearings:
New England—
American lobster, 40751
Permits:
Marine mammals, 40752

National Park Service
NOTICES
Concession contract negotiations:
Amfac Hotels and Resorts, Inc., 40789
Cades Cove Campground Store, Inc., 40790
Cades Cove Riding Stables, Inc., 40790
Craftmen's Guild of Mississippi, Inc., 40790
Meetings:
Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission, 40790
Organization, functions, and authority delegations:
Superintendents, Western Region, 40791
National Register of Historic Places:
Pending nominations—
California et al., 40791

Navy Department
NOTICES
Environmental statements; availability, etc.:
Broadway Complex, San Diego, CA; redevelopment, 40753

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Memphis State University, 40802
Meetings; Sunshine Act, 40821
Applications, hearings, determinations, etc.:
Penn Inspection Co., 40802
Public Service Co. of New Hampshire et al., 40804
(2 documents)
Toledo Edison Co. et al., 40804

Office of Management and Budget
See Management and Budget Office

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

Parole Commission
NOTICES
Meetings; Sunshine Act, 40821

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans:
Special withdrawal liability rules; approval requests—
Steamship Trade Association of Baltimore, Inc., 40805

Personnel Management Office
RULES
Federal Employees Group Life Insurance, and health benefits, Federal employees:
Coverage continuation during retirement, 40715
Federal Employees Group Life Insurance:
Premium rates reduction, 40715

Presidential Documents
PROCLAMATIONS
Special observances:
Forest Products Week, National (Proc. 5882), 40863

Public Health Service
See also Centers for Disease Control; Food and Drug Administration; National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Health Resources and Services Administration
Rural Health Policy Office, Director, 40789

Rural Electrification Administration
RULES
Electric loan policies and application procedures, 40718
PROPOSED RULES
Telephone program; loan processing procedures, 40734
NOTICES
Environmental statements; availability, etc.:
Oglethorpe Power Corp., 40749

Securities and Exchange Commission
RULES
Securities:
Confirmation of securities transactions, 40721
Lost and stolen securities program
Correction, 40721
NOTICES
Meetings; Sunshine Act, 40822
(3 documents)
Self-regulatory organizations:
Clearing agency registration applications—
Delta Government Options Corp., 40816

Self-regulatory organizations; proposed rule changes:
Midwest Securities Trust Co., 40817
National Association of Securities Dealers, Inc., 40809
Options Clearing Corp., 40812
Philadelphia Stock Exchange, Inc., 40814
Applications, hearings, determinations, etc.:
Baldwin Life Insuance Co. et al., 40810
Premier Variable Annuity Account, 40811
UBZ Corp., 40812

Small Business Administration
NOTICES
Disaster loan areas:
Texas, 40818
Wyoming, 40819
Meetings; regional advisory councils:
Idaho, 40819
North Carolina, 40819
Pennsylvania, 40819
Washington, 40820
Applications, hearings, determinations, etc.:
UNCO Ventures, Inc., 40819

Surface Mining Reclamation and Enforcement Office
RULES
Initial and permanent regulatory programs:
Surface coal mining and reclamation operations; prime farmland, 40828

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

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
Articles eligible for duty-free treatment, etc., 40804

Transportation Department
See also Federal Aviation Administration; Urban Mass Transportation Administration
NOTICES
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 40820

Treasury Department
See Comptroller of the Currency

Urban Mass Transportation Administration
PROPOSED RULES
Pre-award and post-delivery audits of rolling stock purchases, 40850

Veterans Administration
PROPOSED RULES
Loan guaranty:
Manufactured home dealers and manufactured home park owner/operators, employees; and real estate brokers and agents; suspension for fraud or misrepresentation, 40742

Separate Parts In This Issue

Part II
Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 40828

Part III
Department of Transportation, Federal Aviation Administration, 40842

Part IV
Department of Agriculture, Agricultural Marketing Service, 40847

Part V
Department of Transportation, Urban Mass Transportation Administration, 40850

Part VI
Office of Management and Budget, 40856

Part VII
The President, 40863

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
5882 40863

5 CFR
870 (2 documents) 40715
890 40715

7 CFR
16 40716
401 40717
1710 40718
Proposed Rules:
1036 40733
1751 40734

12 CFR
32 40720

14 CFR
139 40842
Proposed Rules:
Ch. I 40738
75 40825

17 CFR
240 (2 documents) 40721

18 CFR
4 40722
292 40722

21 CFR
444 40725
510 (3 documents) 40726–40729
520 40726
522 (2 documents) 40726–40728
524 40726
540 40729
546 40726
555 40726
558 40729
886 40825

30 CFR
785 40828
823 40828

36 CFR
211 40729
Proposed Rules:
251 40739

38 CFR
Proposed Rules:
36 40742

40 CFR
Proposed Rules:
52 (2 documents) 40745, 40746
180 40824
185 40824
186 40824

44 CFR
65 (2 documents) 40730
67 40731

49 CFR
Proposed Rules:
663 40850

Rules and Regulations

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

Premium Rates for Life Insurance

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management has re-evaluated the premium rates for the 50% Reduction and No Reduction levels of post-retirement Basic Life Insurance coverage on the basis of improved mortality experience and changed demographic and economic assumptions. This re-evaluation has resulted in a reduction in the premium rates for the two levels of post-retirement coverage. The reductions will be effective December 1, 1988, for insured individuals who elect one of these levels of continued coverage during receipt of annuity or compensation payments commencing on or after that date. For the current retirees, the reductions in premium levels will be reflected in their January 1, 1989, annuity payment.

EFFECTIVE DATE: December 1, 1988.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director, Office of Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bill Smith, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived in order to reduce the premiums required under the Federal Employees' Group Life Insurance Program at the earliest date administratively possible. This reduction represents a savings to both individuals and the Government.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Life Insurance, Retirement, Workers' compensation.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is amending Part 870 of Title 5 of the Code of Federal Regulations as follows:

PART 870—BASIC LIFE INSURANCE

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

Authority: 5 U.S.C. 8716.

2. In § 870.401, paragraphs (f)(2) and (f)(3) are revised to read as follows:

§ 870.401 Withholdings and contributions.

* * * * *

(f) * * *

(2) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(3) or 870.701(c)(3) (maximum reduction of 50 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.52 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.12 for each $1,000 of the BIA.

(3) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(4) or 870.701(c)(4) (no reductions) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $1.69 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.39 for each $1,000 of the BIA.

* * * * *

[FR Doc. 88–23942 Filed 10–17–88; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Parts 870 and 890

Continuation of Health and Life Insurance Coverage During Retirement

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations concerning the continuation of Federal Employees Health Benefits (FEHB) and Federal Employees' Group Life Insurance (FEGLI) coverage during retirement to specify that the statutory minumum-participation requirements for continuing such coverage(s) must be met as of the commencing date of the affected individual's annunity. The FEHB and FEGLI laws set forth the minimum participation requirements a retiring employee must meet "immediately before retirement" in order to continue insurance coverages. However, the Civil Service Retirement (CSR) law provides for various commencing dates of annuity payments for immediate annuities determined, in part, by the date pay ceased, or the date the employee separates from Federal service. In the past, some confusion has been expressed as to what constituted the employee's "retirement date" for the purpose of continuing FEHB and/or FEGLI coverage during retirement. These amendments to the FEHB and FEGLI regulations should remove any ambiguity which existed and clarify for both Federal agencies and employees at what point in time the statutory minimum-participation requirements must be met.

EFFECTIVE DATE: November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Bill Smith, (202) 632–4634.

SUPPLEMENTARY INFORMATION: The FEHB law and the FEGLI law both specify that for coverage to continue during retirement, the retiring employee must retire on an immediate annuity and

have participated in the respective program for the 5 years of service immediately before becoming an annuitant or for the full period or periods of service during which the employee was eligible for coverage, if covered for less than 5 years. The Civil Service Retirement (CSR) law provides that in the case of an optional retirement, the annuity begins on the first day of the month after the employee separates from Federal service *or* after the pay ceases and the age and service requirements have been met. The Federal Employees Retirement System (FERS) law provides that a FERS optional retirement annuity begins on the first day of the month after the employee separates. Other annuities, such as those based on an involuntary separation or for disability, begin on the day after separation from the service *or* the day after pay ceases and the age and service or disability requirements for title to annuity have been met.

The insurance laws specify that an employee must be enrolled for 5 years (or from the first opportunity for coverage) *immediately before becoming an annuitant.* The retirement laws provide for any one of three determinants in establishing the commencing date of annuity—last day of pay, the date following the last day of pay on which the age and service requirements have been met, or the date of separation. In some instances, such as might occur in a disability retirement where the employee is placed on leave without pay while a disability application is pending, the employee might meet the eligibility requirements for an immediate annuity on the day after the last day of pay but not meet the minimum participation requirements for continued FEHB coverage until the date of separation. (This can occur if an employee has not been covered by the FEHB or FEGLI Program throughout his or her entire Federal career.) In these circumstances, the employee may want to base the annuity commencing date on the last day of pay but to establish eligibility for continued insurance coverage based on the later separation date. However, we have found that it is simply inconsistent to claim one date as the date of retirement for one purpose (as in the commencing date of annuity) and then settle upon a different date as the date of retirement for other purposes (such as the continuation of health benefits and life insurance). If the former employee's annuity benefits begin as of a certain date, he or she must be considered as "retired" for purposes of the FEHB and FEGLI Programs on that date as well.

Therefore, OPM proposed to revise its regulations in the areas of health benefits and life insurance to provide that the statutory requirements for continuing coverage as an annuitant must be met by the commencing date of annuity.

The proposed amendment was published in the **Federal Register** on February 29, 1988, (53 FR 5984) with comments due on or before April 29, 1988. The one comment received suggested that the regulations, as amended, require notification of the employee if he or she would not meet the requirements for continued coverage by the date he or she claims as the commencing date of his or her annuity. The employee would then be afforded the opportunity to change his or her commencing date. We believe it would be inappropriate to place such a requirement on agencies because they do not always know in advance of the retirees' retirement plans. However, OPM is providing information about notifying employees that the 5 year requirement must be met on the date annuity commences in a Federal Personnel Manual (FPM) Letter, which is being issued to all Federal agencies. Therefore, it is not necessary to include this as part of the regulation.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because their effect will be limited solely to retiring Federal employees.

List of Subjects in 5 CFR Parts 870 and 890

Administrative practice and procedure, Government employees, Health benefits, Life insurance, Retirement, Worker's compensation.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM amends Parts 870 and 890 of Title 5 of the Code of Federal Regulations as follows:

PART 870—BASIC LIFE INSURANCE

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

Authority: 5 U.S.C. 8716.

2. In § 870.601 of Subpart F, paragraph (a)(2) is revised to read as follows:

§ 870.601 Eligibility for life insurance.

(a) * * *

(2) Has been enrolled for basic life insurance for the five years of service immediately preceding the commencing date of annuity payments or for the full period(s) of service during which he/she was entitled to be insured.

* * * * *

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

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

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104.

4. In Subpart C of Part 890, § 890.303(a) is revised to read as follows:

§ 890.303 Continuation of enrollment.

(a) *On transfer or retirement.* (1) Except as otherwise provided by this part, the registration of an employee or annuitant eligible to continue enrollment continues without change when he or she moves from one employing office to another, without a break in service of more than 3 days, whether the personnel action is designated as a transfer or not.

(2) In order for an employee to continue an enrollment as an annuitant, he or she must meet the participation requirements set forth at 8905(b) of title 5, United States Code, for continuing an enrollment as an annuitant as of the commencing date of his or her annuity or monthly compensation.

(3) For the purpose of this part, an employee is considered to have enrolled at his or her first opportunity if the employee registered to be enrolled during the first of the periods set forth in § 890.301 in which he or she was eligible to register or was covered at that time by the enrollment of another employee or annuitant, or registered to be enrolled effective not later than December 31, 1964.

* * * * *

[FR Doc. 88-23943 Filed 10-17-88; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

Restriction on Importation of Meat From Australia and New Zealand

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations in 7 CFR Part 16, Subpart A entitled "Section 204 Import

Regulations" to carry out the voluntary restraint agreements concerning the level of 1988 meat imports from Australia and New Zealand entered into by those countries with the United States.

EFFECTIVE DATE: October 13, 1988. See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Norman R. Kallemeyn, (202) 447–8031, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, USDA, Room 6616 South Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and Executive Order 11539, as amended, the Office of the United States Trade Representative has negotiated agreements with the Governments of Australia and New Zealand whereby those countries have voluntarily agreed to limit the quantity of certain meats exported to the United States during calendar year 1988. The Secretary of Agriculture, with the concurrence of the Secretary of State and the United States Trade Representative, is authorized to carry out such agreements and to implement such action.

Presently, Title 7 of the Code of Federal Regulations, Part 16, Subpart A entitled "Section 204 Import Regulations" governs the entry or withdrawal from warehouse of certain meats imported from Australia and New Zealand during calendar year 1987. This rule would amend Subpart A to delete the provisions relating to Australia and New Zealand for calendar year 1987 which no longer are in effect and insert new provisions to carry out the voluntary restraint agreements entered into by Australia and New Zealand with the United States for calendar year 1988.

The definition of meat in the regulations encompasses the Tariff Schedules of the United States (TSUS) items which are the subject of the voluntary restraint agreements with Australia and New Zealand. In order to prevent circumvention of the import limitations, the definition also includes meat that would fall within such definition but for processing in Foreign-Trade Zones, territories, or possessions of the United States. In addition, the regulations impose transshipment restrictions which prevent the entry or withdrawal from warehouse for consumption of meat from Australia and New Zealand unless exported from those countries as direct shipments or on through bills of lading or, if processed in Foreign-Trade Zones, territories or possessions of the United States, shipped as direct shipments or on through bills of lading from such areas.

EFFECTIVE DATE: Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery), and 19 U.S.C. 1484(a)(1)(A) (entry)), prior to October 13, 1988, shall not be denied entry.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, this regulation falls within the foreign affairs exception to Executive Order 12291 and the provisions of 5 U.S.C. 553 with respect to proposed rulemaking. Further, the provisions of the Regulatory Flexibility Act do not apply to this rule since the proposed rulemaking provisions of 5 U.S.C. 553 do not apply.

List of Subjects in 7 CFR Part 16

Meat and meat products, Imports.

Accordingly, the regulations at 7 CFR Part 16, Subpart A entitled "Section 204 Import Regulations" are amended as follows:

PART 16—[AMENDED]

1. The authority citation for Part 16 continues to read as follows:

Authority: Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854), and E.O. 11539 (35 FR 10733), as amended by E.O. 12188 (45 FR 989).

2. Section 16.4 is revised to read as follows:

§ 16.4 Transshipment restrictions.

During calendar year 1988, no meat of Australian or New Zealand origin may be entered or withdrawn from warehouse for consumption in the United States unless (a) it is exported into the Customs Territory of the United States as a direct shipment or on a through bill of lading from the country of origin or, (b) if processed in Foreign-Trade Zones, territories, or possessions of the United States, it is exported into the Customs Territory of the United States as a direct shipment on a through bill of lading from the Foreign-Trade Zone, territory or possession of the United States in which it was processed.

3. Section 16.5 is revised to read as follows:

§ 16.5 Quantitative restrictions.

(a) *Imports from Australia.* During calendar year 1988, no more than 800 million pounds of meat exported from Australia in the form in which it would fall within the definition of meat in TSUS items 106.10, 106.22, 106.25, 107.55, 107.61 or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia to the United States.

(b) *Imports from New Zealand.* During calendar year 1988, no more than 445 million pounds of meat exported from New Zealand in the form in which it would fall within the definition of meat in TSUS items 106.10, 106.22, 106.25, 107.55, 107.61 or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from New Zealand to the United States.

Issued at Washington, DC this 13th day of October, 1988.

Roland R. Vautour,

Acting Secretary.

[FR Doc. 88–24046 Filed 10–13–88; 4:56 pm]

BILLING CODE 3410–10–M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 39; Doc. No. 6006S]

General Crop Insurance Regulations; Sunflower Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, to restore a provision for a replanting payment on insured sunflower crops in the Sunflower Endorsement. The intended effect of this rule is to restore the provision allowing a replant payment, previously included in the sunflower policy in effect for the 1986 crop year.

EFFECTIVE DATE: November 17, 1988.

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 April 1, 1992.

John Marshall, 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 Wednesday, November 25, 1987, FCIC published a final rule in the **Federal Register** at 52 FR 45155, to amend the General Crop Insurance Regulations (7 CFR Part 401) by adding a new 7 CFR 401.124, Sunflower Seed Crop Endorsement, effective for the 1988 and succeeding crop years, to contain the provisions for crop insurance protection on sunflowers in an endorsement to the general crop insurance policy.

The provision allowing for a replant payment, which had been previously included in the sunflower policy in effect for the 1986 crop year, was omitted in the rule published at 52 FR 45155.

On Thursday, August 4, 1988, FCIC published a notice of proposed rulemaking in the **Federal Register** at 53 FR 29341 proposing to restore that provision to the sunflower crop insurance policy.

The public was invited to comment on this rule for 30 days after publication in the **Federal Register**, but no comments were received.

In reviewing the rule, it was determined that the amendatory language and the subsection heading were incorrect.

The amendatory language states that 7 CFR 401.124 is amended by adding a new subsection 1.c. This should have read subsection 7.c. Further, the heading for the subsection was incorrectly cited as 1. Insured Crop. This should have read 7. Claim for Indemnity. These corrections are made herein.

List of Subjects in 7 CFR Part 401

Crop insurance, Sunflowers.

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 amends the General Crop Insurance Regulations (7 CFR Part 401), by amending the Sunflower Endorsement (7 CFR 401.124), effective for the 1989 and succeeding crop years as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 is revised to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 401.124—Sunflower Endorsement is amended by adding a new subsection 7.c., effective for the 1989 and succeeding crop years, to read as follows:

§ 401.124 Sunflower seed crop endorsement.

* * * * *

7. *Claim for Indemnity.*

* * * * *

c. A replant payment is available under the Sunflower Endorsement. No replant payment will be made on acreage on which our appraisal exceeds 90 percent of the guarantee. The payment per acre will not exceed the product obtained by multiplying 175 pounds times the price election, times your share.

* * * * *

Done in Washington, DC, on October 11, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-23928 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-08-M

Rural Electrification Administration

7 CFR Part 1710

Electric Loan Policies and Application Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby revises 7 CFR Chapter XVII, by adding a new part, Part 1710, Electric Loan Policies and Application Procedures and adding Subpart C, §§ 1710.50–1710.55, Alternate Loan Application Procedures. The new Part develops electric loan policies and application procedures. The Sections establish a simplified alternate loan application procedure for distribution borrowers meeting specified financial, operational and managerial criteria. The basic loan application procedure for borrowers not meeting the simplified criteria will remain unchanged and is set forth in Section IX, Application Procedures, of REA Bulletin 20–2, "Electric Loan Policies and Application Procedures", (Bulletin 20–2) and REA Bulletin 20–14, "Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act" (Bulletin 20–14).

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: Archie W. Cain, Director, Electric Staff Division, U.S. Department of Agriculture, Rural Electrification Administration, Room 1246–S, 14th & Independence Avenue SW., Washington, DC 20250; Telephone: (202) 382–1900.

SUPPLEMENTARY INFORMATION: This Rule sets forth a new procedure for submitting a loan application as an alternate to that prescribed in Section IX of Bulletin 20–2 and in Bulletin 20–14 (Appendix A Bulletins). This action has been reviewed in accordance with Executive Order 12291, Federal Regulations. This action does not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices to consumers, individual industries, Federal, state or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore, has been determined to be "not major."

REA has concluded that promulgation of this rule does not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and therefore, does not require an environmental impact statement or an environmental assessment. This rule is a categorical exclusion under REA's 7 CFR Part 1794, Environmental Policies and Procedures (*i.e.*, 7 CFR 1794.31 (b)(17)).

Recordkeeping requirements for this regulation have previously received

Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 [44 U.S.C. 3507 *et seq.*]. This rule will reduce the reporting burden for approximately 70 percent of electric borrowers from the reporting burden imposed by the current standard loan application procedure. Reporting burden hours include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing and copying the collected data. The amount of the standard loan application burden is yet to be fully determined. The OMB has requested REA to review and develop a new rule codifying the current loan policy and application procedures as reflected in REA Bulletins 20–2, 20–6, 20–14, 20–22, and 20–23. It was previously determined that a reporting burden of 562,500 hours would be charged against the borrower's development of its long-range and Construction Work Plan (CWP). REA believes that this reporting burden is excessive and has submitted a request to OMB that the hours be changed to reflect the current actual situation.

This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

REA is the lead lender to approximately 924 active electric distribution utility systems serving rural areas throughout the Nation. REA has determined that a considerable number of the distribution systems that submit loan applications have sufficient financial strength, as well as demonstrated operational and managerial experience, to enable REA to make a determination of adequate loan security and feasibility without submitting all the material routinely required in a loan application. In determining the applicant's financial strength, REA will consider the applicant's current equity position and its earnings and cash flows over the previous three years. The mimimum equity level of 25 percent, coupled with the limitation on the loan application of 20 percent of Total Utility Plant, will limit the risk to REA of the equity level rapidly falling to a level requiring a more detailed review in the loan consideration process.

The earnings ratio, called a Modified Times Interest Earned Ratio (MTIER), considers the earnings of the loan applicant before patronage capital and dividends have been added. REA believes that using the MTIER and setting the minimum qualifying level at 1.50 will offer sufficient earnings coverage over and above the level REA has historically required for all distribution borrowers.

Similarly, a Modified Debt Service Coverage (MDSC) ratio that excludes patronage capital and dividends which is at least at a level of 1.25 is an indication of a loan applicant that requires less REA review as to the degree of risk associated with a loan application.

In addition to the financial tests, REA will continue to require loan applicants to maintain for their use the necessary engineering planning and financial forecasting documents currently submitted by all loan applicants. The review of these documents will be done by the REA field staff as they are routinely developed by the borrowers for their own use. This should reduce the adminstrative requirements on both the borrower and REA at the time that a loan application is being considered. Borrowers and their advisory organizations have encouraged REA to reduce the loan processing time and the number of documents which must be submitted.

REA will benefit from the alternative loan application procedures since it will allow the headquarters staff to spend more time evaluating loan applications from borrowers with less financial or operational strength which pose greater loan security risk.

Comments

On April 28, 1988, REA published a Proposed Rule to revise 7 CFR Chapter XVII, by adding a new part, Part 1710, Electric Loan Policies and Application Procedures and adding §§ 1710.50–1710.55, Alternate Loan Application Procedures. In the Proposed Rule notice, REA invited interested parties to file comments on or before June 27, 1988. All responses received have been considered in preparing this Final Rule.

Four different borrower organizations commented on the Proposed Rule. All comments received were in favor of the Proposed Rule. Two borrowers felt a reduction in administrative requirements and loan processing time would be beneficial. One borrower favored the Rule, but added that REA should process applications for insured and guaranted loans up to the ceiling levels as authorized by law Another borrower suggested special consideration should be given if, for example, equity level is slightly below 25 percent but Modified TIER and DSC are very strong, to allow more borrowers to follow the alternative procedure and further reduce administrative requirements.

List of Subjects in 7 CFR Part 1710

Electric power, Loan programs—energy, Rural areas.

In view of the above, REA hereby amends 7 CFR Part XVII by adding Part 1710, Subpart C and §§ 1710.50–1710.55 to read as follows:

PART 1710—ELECTRIC LOAN POLICIES AND APPLICATION PROCEDURES

Subparts A–B—[Reserved]

Subpart C—Alternate Loan Application Procedure

Sec.

1710.50 Purpose.
1710.51 Policy.
1710.52 Definitions.
1710.53 Alternate loan application.
1710.54 Qualification criteria.
1710.55 Procedure.

Authority: 7 U.S.C. 901–950b, Rural Electrification Act of 1936, as amended (RE Act); Pub. L. 99–591, Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

Subpart A–B—[Reserved]

Subpart C—Alternate Loan Application Procedure

§ 1710.50 Purpose.

It is the purpose of this policy to set forth an alternative procedure to that prescribed in Section IX, REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977 (a Part 1701, Appendix A Bulletin) for submitting to the Rural Electrification Administration (REA) a loan application.

§ 1710.51 Policy.

It is the policy of the REA to provide an alternative procedure for submitting a loan application for those distribution borrowers meeting certain financial, operational and managerial tests:

§ 1710.52 Definitions.

As used in this Part:

(a) "Equity" means Total Margins & Equity divided by Total Assets & Other Debits. The equity percentage is obtained from REA Form 7, Financial

and Statistical Report, Part C, by dividing line 32 by line 25 and multiplying by 100.

(b) "MTIER" means Modified Times Interest Earned Ratio calculated as:

$$\frac{A15+A27-A24-A25}{A15}$$

where:

(1) A15=Interest on Long-term Debt as set forth in Part A, Line 15 of REA Form 7 (Financial and Statistical Report) except that Interest on Long-term Debt shall be increased by ⅓ of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent of Total Margins and Equities (Part C, Line 32 of Form 7).

(2) A27=Patronage Capital or Margins as set forth in Part A, Line 27 of Form 7.

(3) A24=Generation and Transmission Capital Credits as set forth in Part A, Line 24 of Form 7.

(4) A25=Other Capital Credits and Patronage Dividends as set forth in Part A, Line 25 of Form 7

(c) "MDSC" means Modified Debt Service Coverage calculated as:

$$\frac{A12+A15+A27-A24-A25}{\text{Debt service billed (REA+CFC+other)}}$$

where:

(1) A12=Depreciation and Amortization Expense as set forth in Part A, Line 12 of REA Form 7 (Financial and Statistical Report).

(2) A15=Interest on Long-term Debt as set forth in Part A, Line 15 of REA Form 7 (Financial and Statistical Report) except that Interest on Long-term Debt shall be increased by ⅓ of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent to Total Margins and Equities (Part C, Line 32 of Form 7).

(3) A27=Part A, Line 27, Patronage Capital or Margins as set forth in Part A, Line 27 of REA Form 7.

(4) A24=Generation and Transmission Capital Credits as set forth in Part A, Line 24 of Form 7.

(5) A25=Other Capital Credits and Patronage Dividends as set forth in Part A, Line 25 of Form 7.

(6) Debt Service Billed (REA+CFC+Other)=All interest and principal billed during the appropriate calendar year plus ⅓ of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent of Total Margins and Equities (Part C, Line 32 of Form 7).

(d) "Total Utility Plant" means the amount set forth in Part C, Line 3 of REA Form 7, Financial and Statistical Report.

§ 1710.53 Alternate loan application.

(a) For distribution borrowers which meet the qualification criteria in § 1710.54, Qualification Criteria, REA will accept 2-year loan applications consisting of the following:

(1) A certified resolution of the board of directors requesting the loan, affirming that the borrower will continue to meet the requirements of the REA mortgage relative to Times Interest Earned Ratio (TIER) and Debt Service Coverage (DSC), and identifying the supplemental lender.

(2) A properly completed and excuted REA Form 740c, "Cost Estimates and Loan Budget for Electric Borrowers," which clearly indentifies the facilities to be financed, and, if applicable, REA Form 740g, "Application for Headquarters Facilities;" and

(3) A letter signed by the borrower's manager summarizing any litigation pending against the borrower which could have an adverse financial impact on the borrower.

(b) The items referred to above will constitute a complete loan application and should be submitted through REA's General Field Representative (GFR) to the REA Area office.

§ 1710.54 Qualification criteria.

(a) In order to submit the alternate loan application procedure specified in § 1710.53 borrowers must meet all of the following criteria:

(1) The borrower's equity must be at least 25 percent in the year-end report for the last calendar year preceding the date of the completed loan application.

(2) The borrower must have achieved a MTIER of at least 1.50 and a MDSC of at least 1.25 for two of the three calendar years last preceding the date of the completed loan application.

(3) The financing request (REA and Supplemental components) must not exceed 20 percent of Total Utility Plant in the year-end report for the last calendar year preceding the date of the completed loan application.

(4) Additionally, the borrower must demonstrate to the satisfaction of the GRF that:

(i) The facilities requested are consistent with its REA approved Construction Work Plan and the associated Borrowers's Environmental Report,

(ii) Its plant is being adequately maintained,

(iii) Its long-range engineering plan and 5-year financial forecast are adequate,

(iv) It has a current REA Form 268, "Report of Compliance and Participation," on file with REA, and

(v) It is in compliance with 7 CFR 1788.40 and 1788.41 relating to flood hazard insurance.

(b) The above procedure will not be available to distribution members of any power supply borrower which is delinquent in its payments to REA or in bankruptcy proceedings. For these and all other borrowers not meeting the criteria outlined above, the existing loan application procedures set forth in Section IX, Application Procedures, of REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977 (as Appendix A Bulletin) must be complied with.

(c) REA reserves the right, when it determines that special circumstances exist, to require additional data from borrowers before acting on these simplified loan applications.

§ 1710.55 Procedure.

Any borrower planning to submit a loan application should contact REA's General Field Representative who will review the matter and advise the borrower on which procedure to follow in submitting the application, i.e. alternate or regular loan application procedure.

Dated: September 1, 1988.

Jack Van Mark,

Acting Administrator.

[FR Doc. 88–23860 Filed 10–17–88; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 32

[Docket No. 88–10]

National Bank Lending Limits; Correction to Temporary Rule

AGENCY: Comptroller of the Currency; Treasury.

ACTION: Technical correction to temporary rule.

SUMMARY: In a temporary rule with request for comment on national bank lending limits published on June 24, 1988 (53 FR 23752), the last sentence was inadvertently omitted from the definition of "contractual commitment to advance funds" in § 32.2(d). This document corrects that error.

FOR FURTHER INFORMATION CONTACT: James F.E. Gillespie, Jr., Assistant Director, Litigation Division, (202) 447–1893; Peter Liebesman, Assistant Director, Legal Advisory Services Division, (202) 447–1880; William C. Kerr, National Bank Examiner, Commercial Activities Division, (202)

447–1164; James R. McDonald, National Bank Examiner, Multinational and Regional Bank Analysis Division, (202) 447–1747.

SUPPLEMENTARY INFORMATION: On June 24, 1988, the Office of the Comptroller of the Currency ("OCC") published document number 88–14344 (53 FR 23752), a temporary rule with request for comment with respect to the treatment of loan commitments, 12 CFR Part 32. Although the temporary rule was effective immediately, OCC requested comments from the public. The comment period ended September 22, 1988. However, OCC inadvertently omitted the last sentence from the definition of "contractual commitment to advance funds" in § 32.2(d) which had been a part of the regulation prior to issuance of the temporary rule. This document corrects this inadvertent omission by amending the temporary rule. OCC retains under consideration whether to adopt the temporary rule as a final rule.

Since this is a technical correction, no further comment period is necessary.

PART 32—LENDING LIMITS

1. The authorization for Part 32 continues to read as follows:

Authority: 12 U.S.C. 84 and 12 U.S.C. 93a.

§ 32.2 [Amended]

2. The following sentence is added at the end of § 32.2(d) defining "contractual commitment to advance funds": The definition also does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer, which do not "guarantee" payment of a money obligation, and which do not provide for payment in the event of default by the account party.

* * * * *

Date: October 13, 1988.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 88–23989 Filed 10–17–88; 8:45 am]

BILLING CODE 4810–33–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 26096A; File No. S7–47–85]

Lost and Stolen Securities Program; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments; Correction.

SUMMARY: On September 29, 1988, the Commission issued a release adopting amendments to rule 17f–1 under the Securities Exchange Act of 1934. This document corrects an inadvertent error in the amendatory language in that release. (53 FR 37281 (September 26, 1988).)

FOR FURTHER INFORMATION CONTACT: Ester Saverson, Jr., at (202) 272–2775.

Accordingly, in FR Doc. 88–21919 at page 37289, in the issue of September 26, 1988, the amendatory language for number 2 is corrected to read as follows and five asterisks are added after paragraph (f).

"2. By amending § 240.17f–1 by revising paragraphs (a) through (f) as follows:".

Paragraph (g) remains in effect.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–24045 Filed 10–17–88; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Part 240

[Rel. No. 34–26169]

Confirmation of Securities Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; Technical amendment.

SUMMARY: Rule 10b–10, 17 CFR 240.10b–10, which requires broker-dealers to provide written confirmations of securities transactions, was adopted by the Commission in 1977, Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318, and has subsequently been amended, most recently in 1985, Securities Exchange Act Release No. 22397 (Sept. 11, 1985), 50 FR 37648. Subparagraph (a)(8)(ii) of Rule 10b–10, relating to disclosure of a broker-dealer's status as a market maker in equity securities, has remained effective since its adoption, but was inadvertently omitted from the 1986 edition and subsequent editions of the Code of Federal Regulations ("CFR"). [1] This technical amendment restores to the CFR that subparagraph as it was published in the **Federal Register**. This action relates solely to a correction of an error in the CFR; therefore, the Commission finds that notice and request for comment pursuant to 5 U.S.C. 551 *et seq.* are unnecessary. Moreover, because the provision to be added was inadvertently omitted from the CFR and the rule has remained effective since its adoption, the Commission finds good cause to make this action effective upon publication.

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: Edward L. Pittman, Special Counsel, (202) 272–2848, Division of Market Regulation, Mail Stop 5–1, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

List of Subjects in 17 CFR Part 240

Securities, Reporting and recordkeeping requirements.

Text of Amendment

Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for Part 240 continues to read as follows:

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

2. Section 240.10b–10 is amended by adding paragraph (a)(8)(ii) as follows:

§ 240.10b–10 Confirmation of transactions.

(a) * * *

(8) * * *

(ii) In the case of a transaction in an equity security, whether he is a market maker in that security (otherwise than by reason of his acting as a block positioner in that security).

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

Date: October 11, 1988.

[FR Doc. 88–24049 Filed 10–17–88; 8:45 am]

BILLING CODE 8010–01–M

[1] A correct version of subparagraph (a)(8) of Rule 10b–10 has been published in the Federal Securities Law Reporter (CCH) ¶ 22,729A and in the NASD Manual (CCH) ¶ 4406.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 292

[Docket No. RM87-13-001; Order No. 499-A]

Implementation of Section 8 of the Electric Consumers Protection Act of 1986; Hydroelectric Applicants With Projects at a New Dam or Diversion Seeking Benefits Under the Public Utility Regulatory Policies Act of 1978

Issued October 13, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule, Order Granting in Part and Denying in Part Rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is granting in part and denying in part the joint rehearing request of the American Rivers and Friends of the Earth (AR) on Order No. 499 (53 FR 26,992 (July 18, 1988, III FERC Stats. & Regs. 30,822 (July 11, 1988)). Order No. 499 implements section 8 of the Electric Consumers Protection Act of 1986 (ECPA). Section 8 of ECPA establishes three new requirements for a developer with a project located at a new dam or diversion who is seeking benefits under the Public Utility Regulatory Policies Act of 1978 (PURPA).

This order on rehearing grants AR's request to have an applicant, during pre-filing consultation, specifically ask for an agency's views on whether or not the project is a new dam or diversion. In addition, the order amends the final rule to provide that written notice be given to all intervenors in a proceeding involving a petition for determination of whether a project has a substantial adverse effect on the environment.

This order denies the other requests of AR on the basis that the current regulations are adequate and require no further clarification.

EFFECTIVE DATE: This rule is effective November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Roger E. Smith, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 375-8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon and Charles A. Trabandt.

Order Granting and Denying Rehearing

I. Introduction

On August 10, 1988, American Rivers and Friends of the Earth (AR) filed for rehearing of Order No. 499, a final rule issued on July 11, 1988 (Docket No. RM87-13-000).[1] Order No. 499 implements section 8 of the Electric Consumers Protection Act of 1986 (ECPA).[2]

II. Background

A. Section 8 of ECPA

Section 8 of ECPA accomplishes three main congressional objectives: (1) it establishes three new environmental requirements for obtaining PURPA benefits by developers with a hydroelectric project located at a new dam or diversion (section 8(a)), (2) it establishes a moratorium on PURPA benefits for such projects (section 8(e)), and (3) it mandates that the Commission conduct a study to evaluate whether PURPA benefits should be available for such projects (section 8(d)).

In addition, section 8 of ECPA creates certain exceptions to the new environmental requirements. The exceptions are intended to grandfather certain projects whose developers had, at the time of ECPA's enactment, relied on existing law and had spent significant amounts of time, effort and money on their projects. Finally, section 8(e) of ECPA provides that any developer who qualifies for one of the exceptions is exempt from the moratorium on PURPA benefits. The result of this framework is that the new requirements in section 210(j) of PURPA [3] can have immediate application even though there is a moratorium on PURPA benefits. For any developer who qualifies for one of the exceptions, the moratorium is not in effect, the developer can seek PURPA benefits, and the developer must comply with the remaining requirements in section 210(j) of PURPA (i.e., those from which the developer is not excepted).

Under the new section 210(j), PURPA benefits will not be available to hydroelectric projects located at a new dam or diversion unless the project meets each of the following requirements:

(1) *No Substantial Adverse Effects.* At the time of issuance of the license or exemption for the project, the Commission finds that the project will not have substantial adverse effects on the environment, including recreation and water quality. Such finding shall be made by the Commission after taking into consideration terms and conditions imposed under either paragraph (3) of this subsection or section 10 of the Federal Power Act (whichever is appropriate as required by the that Act or the Electric Consumers Protection Act 1986) and compliance with other environmental requirements applicable to the project.

(2) *Protected Rivers.* At the time application for a license or exemption for the project is accepted by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to environmental consultation), such project is not located on either of the following:

(A) Any segment of a natural watercourse which is included in (or designated for potential inclusion in) a State or national wild and scenic river system.

(B) Any segment of a natural watercourse which the State has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development.

(3) *Fish and Wildlife Terms and Conditions.* The project meets the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act.

B. Procedural History

The Commission issued an interim rule on February 13, 1987, that implemented portions of section 8 of ECPA.[4] The interim rule was necessary

[1] "Implementation of Section 8 of the Electric Consumers Protection Act of 1986; Hydroelectric Applicants with Projects at a New Dam or Diversion Seeking Benefits Under the Public Utility Regulatory Policies Act of 1978," Order No. 499, 53 FR 26,992 (July 18, 1988), III FERC Stats. & Regs. 30,822 (July 11, 1988).

[2] Pub. L. No. 99-495; 100 Stat. 1243 (Oct. 16, 1986).

[3] Section 8(a) of ECPA amends section 210 of PURPA to add a new section 210(j) that establishes the three new environmental requirements.

[4] Hydroelectric Applicants Seeking Benefits Under section 210 of the Public Utility Regulatory Policies Act of 1978 for Projects Located at a New

Continued

because of a provision in section 8(b)(4) of ECPA (one of the exceptions) that required the Commission to issue a rule within 120 days from ECPA's enactment. On October 5, 1987, the Commission issued a notice of proposed rulemaking (NOPR) in order to implement remaining portions of section 8 of ECPA.[5] In the NOPR, the Commission proposed filing requirements that would allow the Commission to enforce the new requirements in section 210(j) of PURPA. The Commission also proposed to define "substantial adverse effect on the environment" for the purposes of section 210(j)(1) of PURPA. In addition, the Commission proposed to implement that portion of the exception in section 8(b)(4) of ECPA which was not addressed in the interim rule (i.e., section 8(b)(4)(C)). American Rivers and Friends of the Earth filed joint comments in response to both the interim rule and the NOPR. On July 11, 1988, the Commission issued a final rule implementing section 8 of ECPA (Order No. 499).[6]

III. Discussion

AR has three objections to Order No. 499: (1) The regulations do not comply with Congress' direction to the Commission to obtain the views of state and Federal agencies and other interested persons on whether or not a project is located at a new dam or diversion; (2) the regulations do not include adequate mechanisms for identifying state protected rivers; and (3) the regulations are inconsistent with section 8(b)(4)(c) of ECPA because they do not recognize that a state may prevent a presumption of no substantial adverse effects from operating by taking action to protect a river at any time before the Commission makes a final decision. The Commission grants AR's rehearing request in part and denies it in part.

A. Determination of New Dam or Diversion Status.

ECPA section 8 distinguishes between new dams and diversions and existing dams for the purpose of obtaining PURPA benefits. Three new environmental requirements are imposed on projects located on new dams or diversions. Therefore, in order to comply with ECPA, the Commission must verify whether or not a project is located at a new dam or diversion. In making this determination, the Commission obtains the views of interested parties, including various Federal and state environmental agencies.[7]

As noted in the preamble to the final rule, the views of the appropriate Federal and state agencies are obtained through the pre-filing consultation process specified in § 4.38 of the Commission's regulations. Section 4.38 is applicable to all hydroelectric license or exemption applications. It requires an applicant, before submitting its application to the Commission, to provide detailed information to each appropriate agency, to consult with each agency, and to conduct certain studies deemed necessary. At the time of filing, an applicant must then serve a copy of the application on each agency it has consulted and must document in its application that all stages of the consultation process have been fully satisfied.

In the NOPR, the Commission had proposed that every applicant for a project with a power capacity of 80 megawatts (MW) or less state in its application whether or not PURPA benefits will be sought, and if so, whether the project is located at a new dam or diversion. In the final rule, the Commission adopted the suggestion of the New York State Department of Environmental Conservation (NYDEC) to have an applicant state its intention to seek PURPA benefits at the time pre-filing consultation begins, rather than at the time the applicant files its application. The Commission indicated that requiring an applicant to state its intention during pre-filing consultation will ensure that the Commission receives the views of appropriate Federal and state agencies on the issue of whether the project is a new dam or diversion.

AR contends that if an applicant, during the pre-filing consultation process, simply asserts whether or not the project is located at a new dam or diversion, agency personnel "will have no way of knowing that a response is appropriate or even possible on that issue."[8] AR suggests amending § 4.38(b)(1)(vi)(B) to specifically require an applicant to provide appropriate agencies both with a statement that the project is located at a new dam and a statement requesting the agencies' views on that belief.

The Commission has no objection to including AR's suggested language, and § 4.38(b)(1)(vi)(B) will be amended accordingly. As amended, this section requires applicants to state during the pre-filing consultation process whether or not the project is located at a new dam or diversion and to request the agencies' views on that belief. Agencies are expected to treat this statement as they would any other information given to them during the pre-consultation process outlined in § 4.38, *i.e.*, to review the information and, if they disagree, to inform the Commission of the basis for their disagreement.[9]

In addition, AR maintains that the Commission's regulation provides no opportunity for "other interested persons" to address whether or not a project is at a new dam or diversion. AR requests that the Commission amend its regulations to state, as a matter of policy, that in each **Federal Register** notice related to a project for which the applicant seeks PURPA benefits, the Commission will specifically request public comment on whether or not the project is located at a new dam or diversion.

Such a policy statement is not necessary. The Commission's public notices currently indicate, and will continue to indicate, whether the application states that the project is at an existing or new dam, and interested persons may address this issue in their filings. Moreover, any person can always file a protest to object to any application.[10] In addition, any person can file a motion to intervene in an application proceeding.[11] Requiring the applicant to state whether the project is located at a new dam or diversion during pre-filing consultation simply means that the agencies consulted will be able to comment on the issue prior to the filing of the application; it does not mean that there will be no opportunity for other interested persons to comment on that issue.

Dam or Diversion, Docket No. RM87-8-000, 52 FR 5276 (Feb. 20, 1987), III FERC Stats. & Regs. 30,729 (Feb. 13, 1987).

[5] Implementation of section 8 of the Electric Consumers Protection Act of 1986, Hydroelectric Applicants with New Dam or Diversion Projects, 52 FR 38,460 (Oct. 16, 1987), FERC Stats. & Regs [Proposed Regulations (1982–1987)] 32,453 (Oct. 5, 1987).

[6] Implementation of section 8 of the Electric Consumers Protection Act of 1986; Hydroelectric Applicants With Projects at a New Dam or Diversion Seeking Benefits Under the Public Utility Regulatory Policies Act of 1978, Order No. 499, 53 FR 26,992 (July 18, 1988), III FERC Stats. & Regs. 30,822 (1988).

[7] This process is consistent with the discussion in the conference report on ECPA. *See* H.R. Rep. No. 934, 99th Cong., 2nd Sess. at 30 (1986).

[8] Rehearing request of AR at p. 3.

[9] The Commission also notes that it will make its own independent determination of whether a dam is a new or existing dam and that agencies may participate in the licensing process.

[10] *See* Commission Rule 211, 18 CFR 385.211 (1988).

[11] *See* Commission Rule 214, 18 CFR 385 214 (1988).

B. Protected Rivers Requirement.

AR's second objection is that the regulations "do not contain adequate information for the States to determine whether or not rivers identified as protected by the States will be deemed protected rivers by the Commission pursuant to section 210(j)(2)(B) of PURPA." [12] In addition, AR alleges that the regulations provide "absolutely no guidance to the States." [13]

The Commission disagrees. Under new § 292.208(c)(2) there are three ways that a segment of a natural watercourse can qualify as a protected river. First, a river is protected if it is included in, or designated for potential inclusion in, either the National Wild and Scenic River System or a state scenic river system. Second, a river is protected if it crosses an area designated, or recommended for designation, under the Wilderness Act as a wilderness area or a wilderness study area. Finally, a river is protected if a state, either by or pursuant to an act of the state legislature, has determined that the watercourse possesses unique natural recreational, cultural or scenic attributes that would be adversely affected by hydroelectric development. This final provision means that: (1) The state could enact a specific statute to protect a specific river, or (2) the state or a political subdivision thereof (*e.g.*, a department of wildlife conservation, a department of environmental conservation, a fish and wildlife department, etc.) could, pursuant to a statute, designate a river for protected status under state law. The Commission believes § 292.208(c)(2) provides ample guidance for the states and therefore this aspect of AR's request is denied.

In discussing this second objection, AR notes a statement in the preamble to the final rule indicating the Commission's intention to contact appropriate state agencies to determine if projects are located on any natural water course. AR contends that these contacts are "apparently limited to the specific exception described in section 8(b)(3) of ECPA." [14] This is incorrect. In fact, the Commission keeps track of all pending applications that would utilize new dams or diversions and whose developers are seeking PURPA benefits. When an application is found to be acceptable for processing, the Commission sends a letter to the state agency responsible for making state protected river determinations and asks whether the project would be located on a river that has been protected as of the acceptance date of the application. The Commission does not rely exclusively on the assertions of the applicants.

C. Rebuttable Presumption in Section 8(b)(4)(C) of ECPA.

AR's final objection is that the Commission's regulations do not recognize that a state may prevent a presumption of no substantial adverse effect from operating if the state takes action to protect a river at any time before the Commission issues the license or exemption. The Commission agrees with AR that the state, under section 8(b)(4)(C) of ECPA, has up until the time the license or exemption is issued to prevent the presumption from taking effect. However, the Commission believes this intent is clearly expressed in § 292.211(k) of its regulations; accordingly, the Commission denies AR's request.

Section 292.211(k) states that "if, between the Commission's initial and final findings in the AEE petition, the State does not take any action under § 292.208(b)(2), the failure to take action can be the basis for a presumption that there is not a substantial adverse effect on the environment (as that term is defined in § 292.202(g))." [15] Thus, the Commission's regulations allow a state to take action up until the Commission's final finding on the AEE petition. In addition, ECPA mandates that the final finding be made at the time of issuance.[16] Therefore, a state may prevent the presumption from operating at any time before the license or exemption is issued.

Finally, AR requests that § 292.211(g)(3)(i) of the final rule be amended to provide that the Commission will give written notice to all intervenors, as well as to Federal and state agencies, of the initial finding on any AEE petition (*i.e.*, a petition for determination on whether a project has a substantial adverse effect on the environment). The Commission grants this request, and the regulation is amended accordingly.

IV. Effective Date

This rule is effective November 17, 1988.

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 292

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Parts 4 and 292, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission

Lois D. Cashell,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for Part 4 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. No. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR 1978 Comp., p. 142.

2. In § 4.38, paragraph (b)(1)(vi)(B) is revised to read as follows:

§ 4.38 Pre-filing consultation requirements.

* * * * *

(b) * * *

(1) * * *

(vi) * * *

(B) If benefits under section 210 of PURPA are sought, a statement on whether or not the applicant believes the project is located at a new dam or diversion (as that term is defined in § 292.202(p) of this chapter) and a request for the agencies' view on that belief, if any.

* * * * *

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

3. The authority citation for Part 292 is revised to read as follows:

Authority: Federal Power Act 16 U.S.C. 791a–824r (1982), as amended by Electric Consumers Protection Act of 1986, Pub. L. No. 99–495; Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), as amended.

4. In § 292.211, paragraph (g)(3)(i) is revised to read as follows:

---

[12] AR's rehearing request at p. 4.

[13] *Id.* at 5.

[14] AR's rehearing request at p. 4.

[15] 18 CFR 292.211(k) (1988).

[16] Section 8(b)(4)(C) requires that the Commission make its final finding at the time the license or exemption is issued.

§ 292.211 Petition for initial determination on whether a project has a substantial adverse effect on the environment (AEE petition).

* * * * *

(g) * * *

(3)(i) The Commission will provide written notice of the Director's initial finding on the petition to the applicant, to the federal and state agencies that the applicant must consult under § 4.38 of this chapter and to any intervenors in the proceeding.

* * * * *

[FR Doc. 88-24027 Filed 10-17-88; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 88N-0245]

Antibiotic Drugs; Gentamicin Sulfate-Prednisolone Acetate Ophthalmic Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new combination and dosage form containing gentamicin sulfate, gentamicin sulfate-prednisolone acetate ophthalmic suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: November 17, 1988; comment, notice of participation, and request for hearing by November 17, 1988; data, information, and analyses to justify a hearing by December 19, 1988.

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

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food , Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new combination and new dosage form containing gentamicin sulfate, gentamicin sulfate-prednisolone acetate ophthalmic suspension. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR Part 444 by adding new § 444.320c to provide for the inclusion of accepted standards for this product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, becomes effective November 17, 1988. However, interested persons may, on or before November 17, 1988, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before November 17, 1988, a written notice of participation and request for hearing, and (2) on or before December 19, 1988, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factural analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 444

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 444 is amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 44 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. New § 444.320c is added to Subpart D to read as follows:

§ 444.320c Gentamicin sulfate-prednisolone acetate ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Gentamicin sulfate-prednisolone acetate ophthalmic suspension is an aqueous suspension containing in each milliliter gentamicin sulfate equivalent to 3.0 milligrams of gentamicin and 10.0 milligrams of prednisolone acetate. It may contain one or more suitable and harmless chelating agents, tonicity agents, buffers, and preservatives. Its gentamicin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of gentamicin that it is represented to contain. Its prednisolone acetate content is satisfactory if it is not less than 90 percent and not more than 110 percent

of the number of milligrams of prednisolone acetate that it is represented to contain. Its pH is not less than 5.4 and not more than 6.6. It is sterile. The gentamicin sulfate used conforms to the standards prescribed by § 444.20(a)(1). The prednisolone acetate used conforms to the standards prescribed by the USP XXI.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The gentamicin sulfate used in making the batch for potency, loss on drying, pH, specific rotation, content of gentamicin C_1, C_{1a}, C_2, and identify.

(B) The prednisolone acetate used in making the batch for all USP XXI specifications.

(C) The batch for gentamicin content, prednisolone acetate content, sterility, and pH.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The gentamicin sulfate used in making the batch: 10 packages, each containing not less than 500 milligrams.

(B) The batch:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Gentamicin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) *Prednisolone acetate content.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a column packed with octadecyl hydrocarbon bonded silicas, a flow rate of 2.0 milliliters per minute, and an injection volume of 30 microliters. Mobile phase, reference standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Mix acetonitrile distilled deionized water (40:60). Filter the mobile phase through a suitable glass fiber filter or equivalent which is capable of removing particulate contamination to 1 micron in diameter.

(ii) *Reference standard and sample solutions*—(A) *Preparation of reference standard solution.* Accurately weigh approximately 60 milligrams of prednisolone acetate reference standard into a 50-milliliter volumetric flask. Dissolve and dilute to volume with methyl alcohol and mix well. Transfer 8 milliliters of this solution into a 50-milliliter volumetric flask, dilute to volume with 70 percent methyl alchohol, and mix well.

(B) *Preparation of sample solution.* Transfer 1.0 milliliter of the sample into a 50-milliliter volumetric flask, dilute to volume with 70 percent methyl alcohol, and mix well.

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (T) is satisfactory if it is not more than 1.25 at 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (n) is satisfactory if it is greater than 2,000 theoretical plates.

(C) *Coefficient of variation.* The coefficient of variation (S_R in percent) of five replicate injections is satisfactory if it is not more than 2.0 percent. If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter.

(iv) *Calculations.* Calculate the milligrams of prednisolone acetate per milliliter of sample as follows:

$$\text{Milligrams of prednisolone acetate} = \frac{A_u \times C_s \times d}{A_s}$$

where:

A_u = Area of the prednisolone acetate peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the prednisolone acetate peak in the chromatogram of the prednisolone acetate reference standard;

C_s = Concentration of prednisolone acetate in the reference standard solution in milligrams per milliliter; and

d = Dilution factor of the sample.

(3) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

Dated: October 4, 1988.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 88-23993 Filed 10-17-88; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510, 520, 522, 524, 546, and 555

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of various approved new animal drug applications from Med-Tech, Inc., and Medico Industries, Inc., to Fermenta Animal Health Co.

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 7410 NW. Tiffany Springs Parkway, P.O. Box 901350, Kansas City, MO 64190-1350, has requested FDA to change the sponsor name of the NADA's held by Med-Tech, Inc., and Medico Industries, Inc., and consolidate them under the Fermenta sponsor name and labeler code. Med-Tech, Inc., and Medico Industries, Inc., are subsidiaries of Fermenta Animal Health Co. The NADA's affected are:

NADA	Product
011-531	Dizan® Tablets (Dithiazanine Iodide)
011-674	Dizan® Soluble Powder
012-469	Dizan® Suspension
065-491	Chloramphenicol Tablets
065-496	Tetracycline Hydrochloride Soluble Powder
092-837	D.E.C. Sol™ Liquid (Diethycarbamazine Citrate)
098-569	Medacide® SDM 10% Injection (Sulfadimethazine)
106-772	Iron Hydrogenated Dextran
108-963	Oxytetracycline Hydrochloride Injection
109-305	Oxytocin Solution
117-531	Acepromazine Maleate Injection
117-532	Acepromazine Maleate Tablets
117-689	Neurosyn™ (Primidone) Tablets
125-797	Nitrofurazone Dressing
126-023	Nitrofurazone Solution
126-236	Nitrofurazone Soluble Powder
126-676	D&T Worm Capsules (Dichlorophene/Toluene)
127-034	Furosemide Injectable
127-627	Diethylcarbamazine Citrate Tablets
128-069	Diethylcarbamazine Citrate Chewable Tablets
129-034	Furosemide Tablets
131-538	Furosemide Injectable
132-028	Sodium Thiamylal for Injection
134-708	Iron Dextran
135-771	Methylprednisolone Tablets
136-212	Methylprednisolone Acetate Injection
137-310	Gentamicin Solution
137-694	Triamcinolone Acetonide Tablets
138-955	Tylosin Injection
138-869	Triamcinolone Acetonide Injection
140-270	Sulfamethazine Sustained-Release Bolus
140-442	Xylazine Hydrochloride Injection

The agency is amending 21 CFR 510.600, 520.23, 520.580, 520.622a, 520.622b, 520.622c, 520.763a, 520.763b, 520.763c, 520.1010a, 520.1408, 520.1900, 520.2260b, 520.2481, 522.23, 522.1010, 522.1044, 522.1182, 522.1183, 522.1410, 522.1662a, 522.1680, 522.2220, 522.2424, 522.2483, 522.2640a, 522.2662, 524.1580b, 524.1580c, 524.1580d, 546.180d, and 555.110a to reflect the change of sponsor.

In addition, in the **Federal Register** of April 23, 1982 (47 FR 17482), FDA published a document reflecting approval of Medico's NADA 125-797 for a nitroflurazone ointment (i.e., dressing). An amendment to 21 CFR 524.1580b codified that approval. Another amendment to that section (April 30, 1982; 47 FR 18590) failed to reflect the Medico Industries, Inc., approval. In this document, the amendment to § 524.1580b corrects that error and adds the new sponsor number to that section.

List of Subjects

21 CFR Part 510

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

21 CFR Part 520

Animal drugs.

21 CFR Part 522

Animal drugs.

21 CFR Part 524

Animal drugs.

21 CFR Part 546

Animal drugs, Antibiotics.

21 CFR Part 555

Animal drugs, Antibiotics.

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, 520, 522, 524, 546, and 555 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) (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 the table of paragraph (c)(1) by removing the entries for "Med-Tech, Inc.", and "Medico Industries, Inc.", and in paragraph (c)(2) by removing the entries from the table for Nos. "013983" and "015562".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 520 continues to read as follows:

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

§ 520.23 [Amended]

4. Section 520.23 *Acepromazine maleate tablets* is amended in paragraph (a)(2) by removing No. "013983" and adding in its place No. "054273".

§ 520.580 [Amended]

5. Section 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(2) by removing No. "015562" and numerically adding No. "054273".

§ 520.622a [Amended]

6. Section 520.622a *Diethylcarbamazine citrate tablets* is amended in paragraph (a)(6) by removing No. "013983" and adding in its place No. "054273".

§ 520.622b [Amended]

7. Section 520.622b *Diethylcarbamazine citrate syrup* is amended in paragraph (c)(2) by removing No. "013983" and adding in its place No. "054273".

§ 520.622c [Amended]

8. Section 520.622c *Diethylcarbamazine citrate chewable tablets* is amended in paragraph (b)(6) by removing No. "013983" and adding in its place No. "054273".

§ 520.763a [Amended]

9. Section 520.763a *Dithiazanine iodide tablets* is amended in paragraph (c) by removing No. "015562" and adding in its place No. "054273".

§ 520.763b [Amended]

10. Section 520.763b *Dithiazanine iodide powder* is amended in paragraph (c) by removing No. "015562" and adding in its place No. "054273".

§ 520.763c [Amended]

11. Section 520.763c *Dithiazanine iodide and piperazine citrate suspension* is amended in paragraph (b) by removing No. "015562" and adding in its place No. "054273".

§ 520.1010a [Amended]

12. Section 520.1010a *Furosemide tablets or boluses* is amended in paragraph (b) by removing No. "013983" and adding in its place No. "054273".

§ 520.1408 [Amended]

13. Section 520.1408 *Methylprednisolone tablets* is amended in paragraph (b) by removing No. "013983" and adding in its place No. "054273".

§ 520.1900 [Amended]

14. Section 520.1900 *Primidone tablets* is amended in paragraph (b) by removing No. "013983" and adding in its place No. "054273".

§ 520.2260b [Amended]

15. Section 520.2260b *Sulfamethazine sustained-release boluses* is amended in paragraph (f)(1) by removing No. "015562" and adding in its place No. "054273".

§ 520.2481 [Amended]

16. Section 520.2481 *Triamcinolone acetonide tablets* is amended in paragraph (b) by removing No. "013983" and numerically adding No. "054273".

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

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

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

§ 522.23 [Amended]

18. Section 522.23 *Acepromazine maleate injection* is amended in the introductory text of paragraph (c) by removing No. "013983" and adding in its place No. "054273".

§ 522.1010 [Amended]

19. Section 522.1010 *Furosemide injection* is amended in paragraph (b) by removing No. "013983" wherever it appears and adding in its place No. "054273".

§ 522.1044 [Amended]

20. Section 522.1044 *Gentamicin sulfate injection* is amended in paragraph (b)(3) by removing No. "013983" and adding in its place No. "054273".

§ 522.1182 [Amended]

21. Section 522.1182 *Iron dextran complex injection* is amended in paragraph (b)(2)(i) by removing No. "015562" and adding in its place No. "054273".

§ 522.1183 [Amended]

22. Section 522.1183 *Iron hydrogenated dextran injection* is

amended in paragraph (e)(1) by removing No. "015562" and numerically adding No. "054273".

§ 522.1410 [Amended]

23. Section 522.1410 *Sterile methylprednisolone acetate suspension* is amended in paragraph (b) by removing No. "013983" and adding in its place No. "054273".

§ 522.1662a [Amended]

24. Section 522.1662a *Oxytetracycline hydrochloride injection* is amended in paragraph (h)(2) by removing No. "015562" and adding in its place No. "054273".

§ 522.1680 [Amended]

25. Section 522.1680 *Oxytocin injection* is amended in paragraph (b) by removing No. "015562" and numerically adding No. "054273".

§ 522.2220 [Amended]

26. Section 522.2220 *Sulfadimethoxine injection* is amended in paragraph (c)(2) by removing No. "015562" and adding in its place No. "054273".

§ 522.2424 [Amended]

27. Section 522.2424 *Sodium thiamylal for injection* is amended in paragraph (b) by removing No. "013983" and adding in its place No. "054273".

§ 522.2483 [Amended]

28. Section 522.2483 *Sterile triamcinolone acetonide suspension* is amended in paragraph (b) by removing No. "013983" and numerically adding No. "054273".

§ 522.2640a [Amended]

29. Section 522.2640a *Tylosin injection* is amended in paragraph (b)(2) by removing No. "015562" and adding in its place No. "054273".

§ 522.2662 [Amended]

30. Section 522.2662 *Xylazine hydrochloride injection* is amended in paragraph (b) by removing No. "013983" and numerically adding No. "054273".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

31. The authority citation for 21 CFR Part 524 continues to read as follows:

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

§ 524.1580b [Amended]

32. Section 524.1580b *Nitrofurozone ointment* is amended in paragraph (b) by removing the "and" before "053617" and adding after the same number ", and 054273".

§ 524.1580c [Amended]

33. Section 524.1580c *Nitrofurazone soluble powder* is amended in paragraph (b) by removing No. "015562" and adding in its place No. "054273".

§ 524.1580d [Amended]

34. Section 524.1580d *Nitrofurazone solution* is amended in paragraph (b) by removing No. "015562" and numerically adding No. "054273".

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

35. The authority citation for 21 CFR Part 546 continues to read as follows:

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

§ 546.180d [Amended]

36. Section 546.180d *Tetracycline soluble powder* is amended in paragraphs (c)(6)(i)(*c*)(*3*), (c)(6)(iii)(*d*)(*3*), and (c)(6)(iv)(*c*)(*3*) by removing No. "015562" and adding in its place No. "054273".

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

37. The authority citation for 21 CFR Part 555 continues to read as follows:

Authority: Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)); 21 CFR 5.10 and 5.83.

§ 555.110a [Amended]

38. Section 555.110a *Chloramphenicol tablets* is amended in paragraph (c)(1)(ii) by removing No. "013983" and adding in its place No. "054273".

Dated: October 6, 1988.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88–23997 Filed 10–17–88; 8:45 am]

BILLING CODE 4160–01–M

Food and Drug Administration

21 CFR Parts 510 and 522

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of a new animal drug application (NADA) from Vet Labs Limited, Inc., to Chemdex, Inc.

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2871.

SUPPLEMENTARY INFORMATION: Chemdex, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215, is now the sponsor of NADA 138–255 (iron hydrogenated dextran injection) formerly held by Vet Labs Limited., Inc. Vet Labs Limited., Inc., informed FDA of the change of corporate ownership and a subsequent change of sponsor. The agency is amending 21 CFR 510.600(c) (1) and (2) and 522.1183(e)(1) to reflect the new sponsor.

List of Subjects

21 CFR Part 510

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

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 522 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) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in the table of paragraph (c)(1) by alphabetically adding an entry for "Chemdex, Inc.", and in paragraph (c)(2) by numerically adding an entry in the table for "017287" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Chemdex, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215	017287
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
•	• • • • •
017287	Chemdex, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215.
•	• • • • •

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

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

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

§ 522.1183 [Amended]

4. Section 522.1183 *Iron hydrogenated dextran injection* is amended in paragraph (e)(1) by removing "054016" and adding in numerical sequence "017287".

Dated: October 4, 1988.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88–23994 Filed 10–17–88; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510, 540, and 558

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of three NADA's from Solvay Veterinary, Inc., to Salsbury Laboratories, Inc.

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2871.

SUPPLEMENTARY INFORMATION: Salsbury Laboratories, Inc., 2000 Rockford Rd., Charles City, IA 50616–9989, has informed FDA of a sponsor change for three NADA's from Solvay Veterinary, Inc., P.O. Box 7348, Princeton, NJ 08540. The NADA's affected are: (1) NADA 12–680 mycostatin-20 (nystatin), (2) NADA 46–666 procaine penicillin G 50 percent for animal feeds, and (3) NADA 55–060 potassium penicillin G.

These NADA's were originally held by E.R. Squibb & Sons, Inc. In May 1985 Solvay Veterinary, Inc., acquired the U.S. Animal Health Division of E.R. Squibb & Sons, Inc., including these NADA's. Although Squibb was no longer the sponsor of any approved NADA's, the entry in 21 CFR 510.600 was not removed and the sponsor change in 21 CFR 558.430 was not revised to reflect the change of sponsor.

The agency is now amending 21 CFR 510.600(c)(1) and (2), 540.181b(c)(2), and 558.430(a) to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

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

21 CFR Part 540

Animal drugs, Antibiotics.

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, 540, 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) (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 the table of paragraph (c)(1) by removing the entry for "E.R. Squibb & Sons, Inc.," and in paragraph (c)(2) by removing the entry in the table for No. "000003."

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

3. The authority citation for 21 CFR Part 540 continues to read as follows:

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

§ 540.181b [Amended]

4. Section 540.181b *Potassium penicillin G in drinking water* is amended in paragraph (c)(2) by removing No. "053501" and adding in its place No. "017210."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. 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.

§ 558.430 [Amended]

6. Section 558.430 *Nystatin* is amended in paragraph (a) by removing No. "000003" and adding in its place No. "017210."

Dated: October 4, 1988.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88–23995 Filed 10–17–88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Appeal of Decisions Concerning the National Forest System

AGENCY: Forest Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Department of Agriculture is correcting a typographical error made in the final rule establishing procedures for appeals of decisions by Forest Service officers to reoffer for sale returned or defaulted timber sales on National Forest System lands. The rule was published April 22, 1988, at 53 FR 13263.

EFFECTIVE DATE: This rule is effective October 18, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hill, Staff Assistant for National Forest Systems Operations, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 382–9349.

SUPPLEMENTARY INFORMATION: On April 22, 1988, the Department published a final rule establishing procedures by which the public may appeal decisions to resell returned or defaulted National Forest timber sales. The agency has subsequently discovered two typographical errors and an omission in paragraph (p) of 36 CFR 211.17. This paragraph mandates that Reviewing Officers dismiss appeals without a decision on the merits under the circumstances listed. Paragraph (p)(1)(iii) states that the Reviewing Officer shall dismiss an appeal when "The notice of appeal does not meet the requirements of paragraph (i) of this section". This incorrectly refers users of the rule to the paragraph on extensions of time. The rule is being corrected to refer to paragraphs (j) and (k) which cover the contents of a notice of appeal.

Therefore, the following changes are made to the final rule published on April 22, 1988, at 53 FR 13263–13266:

§ 211.17 [Corrected]

1. In paragraph (p)(1) of 36 CFR 211.17, appearing on page 13266, column 2, line 63, change "and" to "an" so that the line reads: "shall dismiss an appeal without".

2. In paragraph (p)(1)(iii) of 36 CFR 211.17, appearing on page 13266, column 3, line 5, change the reference to "paragraph (i)" to read: "paragraph (j) or (k)".

Date: October 6, 1988.

Richard E. Lyng,

Secretary.

[FR Doc. 88-24023 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-11-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator, has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia: DeKalb (docket No. FEMA-6931).	Unincorporated areas	June 23, 1988, June 30, 1988, Decatur-DeKalb News/Era.	The Honorable Manuel J. Maloof, Chief Executive Officer, DeKalb County, 556 North McDonough, Decatur, Georgia 30030.	June 14, 1988	130065

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued October 11, 1988.

[FR Doc. 88-23954 Filed 10-17-88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6940]

Changes in Flood Elevation Determinations; Florida et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Interim Rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations

for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevation listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Dade	Unincorporated areas	Sept. 29, 1988, Oct. 6, 1988, *Miami Herald.*	Hon. Joaquin Avino, County Manager, Dade County, Metro Dade Center, 111 N.W. 1st Street, Suite 2910, Miami FL 33128–1971.	Sept. 19, 1988	125098
Georgia: De Kalb	Unincorprated areas	Sept. 22, 1988, Sept. 29, 1988, *Decatur-De Kalb News/Era.*	Hon. Manuel J. Maloof, Chief Executive Officer, De Kalb County, 556 North McDonough, Decatur, GA 30030.	Sept. 13, 1988	130065
Massachusetts: Norfolk	City of Quincy	Oct. 14, 1988, Oct. 21, 1988, *The Patriot Ledger.*	Hon. Francis X. McCaugley, Mayor of the City of Quincy, 1305 Hancock Street, Quincy, MA 02169.	Sept. 30, 1988	255219B
Mississippi: DeSoto	City of Southaven	Oct. 13, 1988, Oct. 20, 1988, *DeSoto Times.*	Hon. Joseph Cates, Mayor, City of Southaven, P.O. Box 425, Southaven, MS 38671.	Oct. 3, 1988	280331
Missouri: Jefferson	City of Festus	Oct. 13, 1988, Oct. 20, 1988, *Daily News Democrat.*	Hon. Joseph Grohs, Jr., Mayor, City of Festus, City Hall, 711 West Main, Festus, MO 63028.	Oct. 3, 1988	290191
New York: Monroe	Town of Penfield	Oct. 13, 1988, Oct. 20, 1988, *Penfield Press.*	Hon. Donald Mack, Supervisor of the Town of Penfield, 3100 Atlantic Avenue, Penfield, NY 14526.	Sept. 27, 1988	360426B
Texas: Denton	City of Denton	Oct. 12, 1988, Oct. 19, 1988, *Denton Record-Chronicle.*	Hon. Ray Stephens, Mayor of the City of Denton, 215 East McKinney Street, Denton, TX 76201.	Sept. 27, 1988	480194D

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued October 11, 1988.

[FR Doc. 88–23953 Filed 10–17–88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations; Massachusetts et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of

being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
MASSACHUSETTS	
Leominster (city), Worcester County (FEMA Docket No. 6929)	
North Nashua River:	
Approximately 350 feet upstream of Hamilton Street	*331
At upstream corporate limits	*333
Approximately 350 feet upstream of corporate limits	*334
Maps available for inspection at the City Hall, 25 West Street, Leominster, Massachusetts.	
North Reading (town), Middlesex County (FEMA Docket No. 6929)	
Martins Brook:	
At most upstream corporate limits	*82
Upstream side of Burroughs Road	*83
Martins Pond: Entire shoreline	*83
Skug River:	
At confluence with Martins Pond	*83
Upstream side of Central Street	*83
Maps available for inspection at the Town Hall, Park Street, North Reading, Massachusetts.	
NEW JERSEY	
Franklin (township), Somerset County (FEMA Docket No. 6929)	
Seeley's Brook:	
At confluence with Raritan River	*20
At confluence of Tributary B	*48
Approximately 1,250 feet upstream of John F. Kennedy Boulevard	*63
Tributary A:	
At confluence with Seeley's Brook	*28
Approximately 60 feet upstream of Winston Drive	*54
Tributary B:	
At confluence with Seeley's Brook	*48
Approximately 60 feet upstream of Layne Road	*58
Maps available for inspection at the Municipal Building, 475 DeMott Lane, Somerset, New Jersey.	
PENNSYLVANIA	
South Fayette (township), Allegheny County (FEMA Docket No. 6929)	
Chartiers Creek:	
Approximately 2,300 feet downstream of Mayview Road	*838
Approximately 3,400 feet downstream of Mayview Road	*837
Maps available for inspection at the Municipal Building, Millers Run Road, Morgan, Pennsylvania 15064.	
VIRGINIA	
Prince William County (FEMA Docket No. 6929)	
Bull Run:	
Approximately 2,000 feet downstream of confluence with Bull Run Tributary	*169
Approximately 650 feet downstream of Interstate Highway 66	*171
Approximately 65 feet upstream of Interstate Highway 66	*175
Bull Run Tributary D: Approximately 2,700 feet upstream of confluence with Bull Run	*169
Maps available for inspection at the Department of Development Administration, 1 County Complex Court, Prince William County, Virginia.	

Issued: October 11, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88–23955 Filed 10–17–88; 8:45 am]

BILLING CODE 6718–03–M

Proposed Rules

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1036

[Docket No. AO-179-A52; DA-88-113]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changes in the Eastern Ohio-Western Pennsylvania order proposed by five proprietary handlers and a cooperative association. The proposals would allow dumped or spilled milk to be classified in Class III without prior notification of the market administrator, classify buttermilk biscuit and pancake mixes as Class III rather than Class I, and remove lowfat eggnog from the Fluid Milk Product definition. Handlers and producers would also have an opportunity to express views and submit data on the need for the Director of the Dairy Division to temporarily increase the pool supply plant delivery requirement to pool distributing plants. Proponents contend that the modifications are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:00 a.m., local time, on November 1, 1988.

ADDRESS: The hearing will be held at the Holiday Inn, 7230 Engle Road, (junction of I-71 and Bagley Road), Middleburg Heights, Ohio 44130, (216) 243-4040.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn, 7230 Engle Road (junction of I-71 and Bagley Road), Middleburg Heights, OH 44130, beginning at 9:00 a.m., local time, on November 1, 1988, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable reulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

PART 1036—[AMENDED]

The authority citation for 7 CFR Part 1036 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing Inc. and Superior Dairy, Inc.

Proposal No. 1

This proposal would give interested persons an opportunity to comment on whether the percentage of milk required by § 1036.7(b) to be shipped by pool supply plants to pool distributing plants should be increased temporarily under the authority of the Director of the Dairy Division pursuant to § 1036.7(f).

Proposed by Superior Dairy, Inc.

Proposal No. 2

This proposal to revise § 1036.15 would specifically exclude "lowfat eggnog" from the Fluid Milk Product definition, resulting in the Class III classification of that product, as follows:

§ 1036.15 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 20 percent total solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include lowfat eggnog (containing less than 3½ percent milk fat) or those products and mixtures listed in § 1036.40(b)(1) and (3), and (c)(1).

Proposed by Sani Dairy and Oberlin Farms Dairy, Inc.

Proposal No. 3

In § 1036.40, revise paragraph (c)(1) to classify buttermilk biscuit mixes as Class III, as follows:

§ 1036.40 Classes of utilization.

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated or condensed milk or skim milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk biscuit mixes, any product containing six percent or more nonmilk fat (or oil) and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

* * * * *

Proposed by Taylor Milk Company

Proposal No. 4

In § 1036.40, revise paragraph (c)(1) to classify buttermilk mixes, buttermilk or buttermilk blend for use in on-premises baking by a retail business in Class III, as follows:

§ 1036.40 Classes of utilization.

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, buttermilk biscuit mixes, buttermilk or buttermilk blend for use in on-premises baking by a retail business and any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of the section) in hermetically sealed glass or metal containers;

* * * * *

Proposed by Sani-Dairy, Oberlin Farms Dairy, Inc., and Turner Dairy Farms, Inc.

Proposal No. 5

This proposal would allow milk dumped, spilled or used for livestock feed to be classified as Class III without prior notification of such action to the market administrator by revising § 1036.40(c)(2) and reserving § 1036.40 (c)(3) as follows:

§ 1036.40 Classes of utilization.

* * * * *

(c) * * *

(2) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped, spilled, or disposed of for livestock feed.

(3) [Reserved]

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 6

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, C. Mack Endsley, P.O. Box 30128, Cleveland, Ohio 44130, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Eastern Ohio-Western Pennsylvania Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 13, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88-24022 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1751

Loan Processing Procedures; Telephone Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to add Part 1751, Loan Processing Procedures—Telephone Program, to 7 CFR Chapter XVII. This new part consolidates, revises, and clarifies the policies, requirements, and procedures presently contained in various REA publications, including REA Bulletin 320-4, "Preloan Procedures for Telephone Loan Applicants," pertaining to the methodology to be used by REA in reviewing and approving loans and releases of loan funds.

The above Bulletin also contains certain other policies, requirements, and procedures that will be incorporated into other CFR parts. This Bulletin will then be rescinded.

Part 1751 sets forth the provisions and requirements of the RE Act and the REA administrative policies, requirements, and procedures concerning loan budgets, feasibility studies, characteristics letters, loan recommendations, and releases of funds. The primary objectives of the proposed rule are to update, consolidate, clarify, and simplify REA policies and procedures; to lessen the paperwork burden on borrowers; and to decrease processing time by REA.

All borrowers applying for or receiving loans or releases of loan funds will be affected by this rule.

DATE: Public comments concerning this proposed rule must be received by REA no later than November 17, 1988.

ADDRESS: Comments may be mailed to F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be inspected in Room 2250 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-9550. The Draft Regulatory Impact Analysis describing the options considered in developing this rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect

on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in these proposed rules have been submitted for approval to the Office of Management and Budget (OMB). They will not be effective until approved by OMB.

Public reporting burden for this collection of information is estimated to average 16 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, ORIM, Room 404–W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for REA, Washington, DC 20503.

Background:

Currently, the policies and requirements concerning loan budgets, feasibility studies, characteristics letters, loan recommendations, and releases of funds are contained in numerous REA publications. Many of these are outdated and contain conflicting information. It is necessary to consolidate the information and make it available to the public by publishing it in the Federal Register.

This proposed rule eliminates some reporting requirements and streamlines others, reducing the borrowers' burden, while permitting REA to maintain the security of the Government's loans.

Specifically, the limitations on the amounts REA will lend for office equipment (other than furniture), operating funds, and contingencies have been changed.

7 CFR Part 1751 supersedes any sections of REA Bulletins with which it is in conflict.

List of Subjects in 7 CFR Part 1751

Loan programs—communications, Telecommunications, Telephone.

Therefore, REA proposes to amend 7 CFR Chapter XVII by adding the following new Part 1751:

PART 1751—LOAN PROCESSING PROCEDURES—TELEPHONE PROGRAM

Subpart A—General

Sec.

1751.1 General statement.
1751.2 Definitions.
1751.3 Availability of forms.

Subpart B—Review of Application

1751.10 Review of Completed Loan Application.
1751.11 Approval of Loan Design.

Subpart C—Estimate of Total Project Costs

1751.20 Telephone Loan Budget.
1751.21 Cost Allocation for Rural and Nonrural Areas.

Subpart D—Feasibility Study

1751.30 Description of Feasibility Study.

Subpart E—Characteristics Letter

1751.40 Description of Characteristics Letter.

Subpart F—Loan Approval

1751.50 Loan Approval Requirements.
1751.51 Approval.
1751.52 Loan Documents.

Subpart G—Release of Funds

1751.60 Prerequisites to the Advance of Funds.
1751.61 Amounts Spent for Preloan Activities.

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

Subpart A—General

§ 1751.1 General statement.

(a) This part sets forth the policies, procedures, and requirements of REA during the period from its receipt of a completed loan application until the advance of funds. This part concerns the factors REA considers in determining the characteristics of a loan, such as the amount of the loan, repayment period, interest rate, and conditions to the advance of funds. Involved in this determination are: a loan budget, feasibility study, characteristics letter, loan recommendation, and release of funds. This CFR part supersedes all REA Bulletins that are in conflict with it.

(b) See 7 CFR Part 1745 on general policies, 7 CFR Part 1749 for details on submitting a loan application, and 7 CFR Part 1754 on the advance of funds.

§ 1751.2 Definitions.

As used in this part:

(a) "Acquisition" means the purchase of another telephone system, lines, or facilities whether by acquiring telephone plant in service or majority stock interest of one or more organizations.

(b) "Administrator" means the Administrator of REA.

(c) "Borrower" means any organization which has an outstanding loan made or guaranteed by REA, or which is seeking such financing.

(d) "Feasibility study" means the analysis performed by REA of the borrower's current and projected financial condition to determine the economic feasibility of a loan.

(e) "Interim financing" means funding for a project the borrower desires to be financed by an REA loan but for which no REA loan funds have been made available.

(f) "Loan" means any loan made or guaranteed by REA.

(g) "Project" means the improvements and telephone facilities financed by a particular REA loan.

(h) "RE Act" means the Rural Electrification Act of 1936, as amended (7 U.S.C. 9801 et seq.).

(i) "Reserves" means loan or nonloan funds that have not been encumbered. Funds are encumbered when they have been approved for advance by REA for a particular loan purpose.

(j) "Rural area" means any area of the United States not included within the boundaries of any incorporated or unincorporated city, village or borough having a population exceeding 1,500. The population figure is obtained from the most recent data available from the Bureau of the Census and Rand McNally and Company. The determination of

whether an area is rural is based on the population within the corporate limits or boundaries or unincorporated areas in existence at the time the facilities to serve the community were first financed by REA. If a community is considered rural at that time, it will always be considered rural.

(k) "Special Project" means facilities involving investment in excess of $100,000 for any single subscriber.

(l) "Telephone service" means any communication service for the transmission of voice, sounds, signals, pictures, writing, or signs of all kinds through the use of electricity between the transmitting and receiving apparatus, includes all telephone lines, facilities, or systems used to render such service. It does not mean

(1) Message telegram service, (2) community antenna television system services or facilities other than those intended exclusively for educational purposes, or (3) radio broadcasting services or facilities within the meaning of section 3(o) of the Communications Act of 1934, as amended.

(m) "Times Interest Earned Ratio" (TIER) means the ratio of a borrower's net income plus interest expense plus taxes based upon income, all divided by interest expense.

§ 1751.3 Availability of forms.

Single copies of REA forms and publications cited in this part are available from Administrative Services Division, Rural Electrification Administration, United States Department of Agriculture, Washington, DC 20250. These REA forms and publications may be reproduced.

Subpart B—Review of Application

§ 1751.10 Review of Completed Loan Application.

(a) The completed loan application consists of:

(1) A completed REA Form 490, "Application for Telephone Loan or Loan Guarantee,"

(2) A market survey called the Area Coverage Survey (ACS),

(3) The plan and associated costs for the proposed construction, called the Loan Design (LD), and

(4) Various supplementary information.

See 7 CFR Part 1749 for additional information.

(b) REA shall review the completed loan application, particularly noting subscriber data, grades of service, extended area service (EAS) connecting company commitments, commercial facilities, system and exchange boundaries, and proposed acquisitions. REA shall review the LD to determine that the system design in acceptable to REA, that the design is technically correct, that the cost estimates are reasonable, and that the design provides for area coverage service. REA shall also review the population and incorporation status of all communities served or to be served by the borrower to determine if any nonrural areas are served and if municipal franchises are required. Any REA lending for nonrural areas must be in accordance with 7 CFR Part 1745.

(c) REA will notify the borrower if REA recommends major changes in subscriber projections, design, cost estimates, or other significant matters. REA will not continue loan processing until REA and the borrower agree on all major changes.

§ 1751.11 Approval of loan design.

REA shall notify the borrower when the preloan data concerning the system design and costs and subscriber projections have been approved. If found acceptable, REA will approve the LD with any required changes. A copy of the approved LD, with any significant changes, as determined by REA, will be returned to the borrower.

Subpart C—Estimate of Total Project Costs

§ 1751.20 Telephone loan budget.

(a) REA shall prepare a "Telephone Loan Budget" (REA Form 493) showing all costs for the proposed project and the amount of loan and nonloan funds to be used. The budget shall show, as applicable, amounts for central offices, outside plant and station equipment, right-of-way procurement, land, buildings, removal costs, special projects, engineering, vehicles and work equipment, office equipment, operating funds, refinancing with loan funds, debt retirement with nonloan funds, acquisitions, and contingencies. The amounts budgeted, exclusive of prior loan reserves, generally shall be rounded to the nearest $1,000.

(1) If the loan is to be made concurrently with the Rural Telephone Bank (RTB), the budget shall include the amount required for the purchase of RTB Class B stock. This is 5 percent of the amount to be borrowed from RTB for all purposes other than the purchase of RTB Class B stock. The borrower may elect to use nonloan funds for all or part of this requirement.

(2) The amount of funds included in any loan shall be limited for certain items.

(i) Operating funds for working capital or current operating deficiencies shall be included only in cases of financial hardship as determined by the Administrator.

(ii) Contingencies shall not exceed 3 percent of the total amount of loan funds to be used for construction, engineering, operating equipment, RTB Class B stock, and operating funds.

(b) REA shall prepare the cost estimates based on the data in REA Form 494, "Loan Design Summary," and REA Form 495, "Construction Cost Estimates," and other parts of the LD submitted by the borrower, and on other pertinent information. See 7 CFR Part 1749. The amounts included in the proposed budget shall be the estimated costs, less the value of materials and supplies on hand or acquired that can be used in the proposed construction. The cost estimates in the LD may be adjusted by REA in consultation with the borrower and, as appropriate, its engineer. See § 1751.10(c).

(c) Generally, the new loan shall be reduced by any required equity funds and funds available in reserves to determine the proposed loan requirement.

(d) Where amounts are available in reserves, REA may, at its option, deny further advances of these funds if they will be used to finance projects in the proposed loan.

(e) The budget shall also show, if applicable, the reserves for each budget purpose as of the date of the latest REA Form 481, "Financial Requirement Statement," submitted by the borrower. Any amounts representing nonloan funds deposited for construction under interim financing and not yet reimbursed with loan or equity funds shall be excluded.

(f) Encumbered funds generally shall not be considered available for new loan purposes.

§ 1751.21 Cost allocation for rural and nonrural areas.

(a) Pursuant to the requirements in 7 CFR Part 1745, if loan funds are proposed to be used to construct facilities to serve subscribers in nonrural areas, REA shall allocate costs between rural and nonrural areas. This allocation will be used in the determination of whether the use of loan funds in nonrural areas is necessary and incidental to furnishing and improving telephone service in rural areas. Cost estimates shall be provided by the borrower in the LD. See 7 CFR Part 1749. REA will use the following methods to review the cost breakdowns and to determine their appropriateness:

(1) The costs of facilities associated directly with particular subscribers shall be allocated to those subscribers.

(2) The costs of facilities that serve both rural and nonrural subscribers shall be allocated based on the relative number of rural and nonrural subscribers receiving service from those facilities.

(3) Where a borrower's exchange that includes a nonrural community will have EAS with other exchanges of the borrower, the breakdown of subscribers and funds in the allocation for rural and nonrural areas included in the proposed loan shall show the number of rural and nonrural subscribers, and the costs to serve each group as determined per paragraphs (a)(1) and (a)(2) of this section, in both the subject exchange and in all exchanges connected by EAS, as a whole.

(b) If REA determines that costs cannot be adequately allocated using the procedures in paragraph (a)(1) through (a)(3) of this section, REA shall, on a case by case basis, allocate costs between the rural and nonrural subscribers using whatever methodology it deems reasonable. Any such allocation shall be justified.

Subpart D—Feasibility Study

§ 1751.30 Description of Reasibility Study.

(a) In connection with each loan REA shall prepare a feasibility study that includes sections on consolidated loan estimates, operating statistics, projected telecommunications plant, projected retirement computations, and projected revenue and expense estimates, including detailed estimates of depreciation and amortization expense, scheduled debt service payments, local service revenues, and toll and access charge revenues. Normally, projections will be for a 5-year period and used to determine the ability of the borrower to repay its loans in accordance with the terms thereof and all other expenses.

(b) REA makes loans only to rural telephone systems that are financially feasible. REA shall consider the factors discussed in paragraph (c) through (g) of this section in determining feasibility.

(c) The revenue and expense estimates for the feasibility study generally will be based on the borrower's operating experience provided that:

(1) Adjustments are made for any nonrecurring revenues and expenses that are not representative of the borrower's past operations and would thus make the borrower's experience data inappropriate for the forecast; and

(2) Adjustments are made for any special or new characteristics or other considerations deemed necessary by the Administrator.

(d) The financial and statistical data are derived from REA Form 479, "Financial and Statistical Report for Telephone Borrowers," or for initial loan borrowers who have not reported on REA Form 479, the data may be obtained from the borrower's financial statements and other reports.

(e) When the borrower's operating experience is not adequate, the estimates in the feasibility study normally will be developed from state and regional standards based on the experience of REA telephone borrowers. These standards are included in the Borrower's Statistical Profile (BSP), which is revised annually by REA. If the borrower's operating experience is not the basis for one or more per-subscriber estimates used in the feasibility study, the estimates generally may not vary from the standard by an amount in excess of 20 percent to reflect the particular characteristics of the loan applicant. Any variation from the standard shall be justified.

(f) In cases where these per-subscriber standards do not represent a reasonable forecast of a particular borrower's operations (for example, when a variation greater than 20 percent is necessary), estimates based upon a special analysis of the borrower's projected operations shall be used. The special analysis will accompany the feasibility study.

(g) When it is reasonably expected that a subscriber, classified as a special project, may discontinue service, a second feasibility study will be prepared, for comparison purposes, omitting revenues and expenses from this subscriber.

Subpart E—Characteristics Letter

§ 1751.40 Description of Characteristics Letter.

(a) After all of the studies and exhibits for the proposed loan have been prepared, but before the loan is recommended, REA shall inform the borrower, in writing, of the characteristics of the proposed loan. The purpose of the characteristics letter is to obtain the borrower's concurrence, before consideration of loan approval and the preparation of legal documents relating to the loan, in such matters as the amount of the proposed loan, its purposes, rate of interest, length of repayment period, local service rates required for feasibility, loan security requirements, and other prerequisites to the advance of loan funds. The letter, whether or not concurred in by the borrower, does not commit REA to approve the loan on these or any other terms.

(b) The Forecast of Revenues and Expenses and a copy of REA Form 493, "Telephone Loan Budget," shall be enclosed with the characteristics letter. This copy of the budget shall be subject to change by REA with the borrower's agreement.

Subpart F—Loan Approval

§ 1751.50 Loan approval requirements.

(a) In addition to requirements set forth in 7 CFR Part 1745, 7 CFR Part 1749 and other applicable parts of 7 CFR Chapter XVII, the following are certain additional requirements that must be met before REA will approve a loan.

(1) If the borrower had 100 or more employees as of the prior December 31, then it must have submitted the current annual Employer Information Report EEO–1, Standard Form 100. The completion of this form is a Department of Labor requirement; see 29 CFR 1602.7 through 1602.14.

(2) The borrower must be in compliance with regulations on nondiscrimination. See 7 CFR Part 1790 (or REA Bulletin 320–19).

(3) For subsequent loans, REA must determine whether the borrower's accounting records are adequate. If the records are not adequate, as determined by REA, a provision will be included in the loan contract requiring the borrower to improve its records to an adequate level.

(4) As determined by REA, the local service rates used as the basis for loan feasibility must be appropriate to the area.

(5) The borrower must not have any receivables, loans, guarantees, investments, or other obligations that are contrary to the mortgage provisions (See 7 CFR Part 1758) or REA policy. If the borrower does have any of these items, the loan contract shall contain a provision requiring that they be eliminated prior to the advance of funds.

(6) REA must make a determination on flood insurance requirements.

(i) In accordance with the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) REA shall not approve financial assistance for acquisition or construction of buildings and equipment therein in an area identified by the Secretary of Housing and Urban Development (HUD) as having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program and the property owners obtain flood insurance as required under the Flood Act.

Accordingly, a finding shall be made on whether loan funds will be used to finance buildings or equipment located in a flood hazard area. If loan funds are to be used in a flood hazard area, a provision restricting the release of funds will be included in the loan contract.

(ii) The REA field representative shall determine the exact location of each building that the borrower owns or occupies, or that it will construct or acquire, that is located within a flood hazard area and for each such building determine whether or not the community in which the building is located or to be located is participating in the flood insurance program.

(7) All environmental requirements must have been met by the borrower. See 7 CFR part 1794.

§ 1751.51 Approval.

(a) A loan is approved when the Administrator, or whoever is delegated authority, signs the administrative findings and the letter to the borrower announcing the loan.

(b) If the loan is not approved, REA shall notify the borrower, in writing, of the reasons for such a decision.

§ 1751.52 Loan Documents.

Following approval of the loan, REA shall forward the necessary loan documents to the borrower for execution, delivery, recording, and filing, as directed by REA. See 7 CFR Part 1758 for details.

Subpart G—Release of Funds

§ 1751.60 Prerequisites to the Advance of Funds.

(a) Standard prerequisites to the advance of funds, generally applied to all loans, are set forth in Article II of the form of loan contract attached as Appendix A to 7 CFR Part 1758. Additional prerequisites may be added on a case by case basis to a particular borrower's loan contract.

(b) REA must approve a release of funds before any loan funds can be advanced. The release of funds is the determination that the borrower has complied with all of the conditions prerequisite to advances as set forth in the loan contract to the extent deemed necessary by REA for approval of the use of loan funds and any required equity or other nonloan funds.

(c) REA approves the release of funds only after it determines that all prerequisites to the advance of loan funds have been met or funds should be advanced even though loan contract prerequisites remain unsatisfied.

(d) Following approval, loan funds and related nonloan funds may be advanced in accordance with 7 CFR Part 1754.

(e) The borrower may be required to discharge indebtedness and/or to close acquisitions before advances can be made for construction purposes. In such cases, the borrower shall submit evidence that these actions have been completed. If the evidence is satisfactory to REA, REA shall allow the remaining loan funds to be advanced in accordance with 7 CFR Part 1754.

§ 1751.61 Amounts spent for Preloan Activities.

If the borrower desires to credit amounts spent for preloan activities against any equity or general funds required by the loan contract, it shall submit an itemized statement of such expenditures to the Area Office. If REA determines that the amounts spent are reasonable and that the items are acceptable as preloan expenditures, they will be accounted for on REA Form 503, "Release of Telephone Loan Funds." Statements of preloan expenditures will be verified as to accuracy when loan fund audits are made by REA.

Dated: October 12, 1988.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 88-23965 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. 1

[Docket No. 25717; Summary Notice No. PR-88-12]

Summary of Rulemaking Petition Received From American Airlines, Inc.

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of Petition for Rulemaking.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of a petition by American Airlines, Inc., to limit operations at Midway Airport and Meigs Field in Chicago, and to determine operations levels for the Chicago area air traffic system generally. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither the publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before December 19, 1988.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket [AGC-210], Docket No. 25717, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-3491.

SUPPLEMENTARY INFORMATION: 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 Rule Docket [AGC-210], Room 915, FAA Headquarters Building [FOB-10A], Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

Petitioner requests that the requirements of Part 93, Subpart K of the Federal Aviation Regulations (14 CFR Part 93, Subpart K) be amended to add Midway Airport to the airports subject to the high density traffic airport rule as defined in Part 93, Subparts K and S, and to take similar or other equivalent action to limit instrument flight rules (IFR) operations at Meigs Field. Current regulations apply the requirements of the rule to operations at four (4) airports—O'Hare, National, JFK, and LaGuardia Airports. The petitioner further requests that the FAA determine the aggregate number of IFR operations that can be handled safely and efficiently by the Chicago area air traffic control system on an average day and to apply that number to establish slot levels at O'Hare, at Midway, and, in the case of IFR operations, at Meigs Field. Petitioner proposes that any slots withdrawn at O'Hare Airport should be withdrawn in accordance with the procedures contained in 14 CFR 93.223. Petitioner states that these changes are necessary because current operations at O'Hare, Midway, and Meigs are placing a heavy burden on the Chicago area air traffic control system.

Finally, petitioner requests that public notice and comment on this petition be waived and that the FAA refrain from publishing this petition for rulemaking.

and instead proceed immediately to the publication of a notice of proposed rulemaking with an abbreviated comment period. The FAA believes, however, that all interested and affected parties should be given the opportunity to comment on this petition, in consideration of the complexity and potential impacts of the rulemaking action requested. Therefore, the FAA is publishing the petition for public comment in accordance with the procedures contained in agency regulations, 14 CFR Part 11.

Issued in Washington, DC on October 13, 1988.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 88-23950 Filed 10-17-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

Ski Area Permits

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department hereby proposes to make certain technical changes and to add several new provisions to the rules governing issuance and administration of special uses of National Forest System lands. These amendments implement the authority granted by the National Forest Ski Area Permit Act of October 22, 1986, to authorize nordic and alpine ski areas and facilities with a single permit for up to 40 years.

DATE: Comments must be received in writing by December 19, 1988.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2710), Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090-6090.

FOR FURTHER INFORMATION CONTACT: John Shilling, Recreation Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20013-6090. (202)-382-9426.

SUPPLEMENTARY INFORMATION:

Background

Two Acts in combination have authorized the Secretary of Agriculture to issue permits for and regulate occupancy and use of ski areas on National Forest System lands—the Act of March 4, 1915 (16 U.S.C. 497b), known as the "Term Permit Act"; and the Act of June 4, 1897 (16 U.S.C. 551), known as the "Organic Administration Act."

Under the Term Permit Act, permits can be issued for a maximum of a 30-year term and for a maximum of 80 acres for facilities and structures. The Organic Administration Act provides for the Secretary of Agriculture to make rules and regulations for the national forests to "regulate their occupancy and use." In order to accommodate most ski area developments, therefore, it has been necessary to issue two permits; one long-term permit to provide for areas including facilities having high investments such as ski lifts and lodges, and a second permit under the authority of the Organic Administration Act for the areas necessary for ski runs. The term permits usually have been issued with a term of 20 years, 30 years for a major development, while the second permit for ski runs has been renewed annually.

While this dual permit system has withstood court challenges, it has proved cumbersome and confusing. Additionally, many permit holders felt that the insecurity of the annual permit had a negative influence on the normal banking and business arrangements needed to secure the loans necessary for major ski area development.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) seeks to remedy this situation by increasing the maximum term to 40 years and removing the statutory acre limitation. Under the Act, a permit holder now may receive a single term permit for a ski area for up to 40 years, and the permit can encompass such acreage as the Forest Service, acting for the Secretary of Agriculture, determines necessary to accommodate the total ski area operation and facilities. The Act recognizes that ski area authorizations are subject to periodic revision as a result of decisions made in forest and resource land management plans. In addition, Section 3(c) of the Act requires the Secretary of Agriculture to promulgate rules and regulations to carry out the Act and to convert existing permits, with consent of existing permit holders, by October 22, 1989, to permits issued under the Act. The Act does not apply to issuance of ski area permits when the improvements are the property of the the United States. In those few cases, the authority remains the Granger-Thye Act of 1950, the only authority the Forest Service has to rent or lease facilities. Also the Act does not apply to commercial nordic skiing where little or no development or permanent improvement on the land is required. This type of skiing shall continue to be allowed as an outfitting and guiding activity and authorized under the Organic Administration Act.

Proposed Rule

During consideration of rules that might be needed to implement the Ski Area Permit Act the Forest Service carefully examined the provisions of the Act in the context of the existing regulations governing special uses on National Forest System lands. The existing rules are set forth at 36 CFR Part 251, Subpart B and apply to all forms of permitted activities authorized by various statutes except disposal of timber and minerals and the grazing of livestock. Specificially, the current regulations cover application procedures; nature of interest conveyed; terms and conditions to be in the permit; rental fees; transfer of special use privileges; when and how permits may be terminated, revoked, or suspended; and procedures for modifications, acceptance, and renewals.

The Agency reviewed several approaches to implementing the Act, including promulgating additional regulations. Having reviewed the provisions of the Act against the existing requirements of the special uses rules, the Agency concludes that the existing regulations need to be amended in three ways: first, to add a definition of what constitutes a ski area and therefore what sites are included under the Act; second, to provide guidance to the authorized officer in exercising discretion not to issue a permit for the full term provided for by the Act; and, third, to establish procedures for administering the conversion of existing special use permits to new permits authorized by the Act. The existing special use regulations at 36 CFR Part 251, Subpart B are otherwise sufficient and adequate for implementing the provisions of the Ski Area Permit Act and do not require further amendment to carry out the statute.

The language of the Act is consistent with many provisions of the existing regulations: the Act requires that ski area permit fees by based on fair market value; this requirement exists for all permits at § 251.57. The provision of the Act that allows renewal of ski area permits at the discretion of the Secretary is provided for at § 251.64, and provisions of the statute related to termination and modification of permits and establishing terms and conditions for ski area permits are provided for in § 251.60, 251.61, and 251.56 respectively. There is nothing in the Act that in and of itself appears to merit or require substantive revision of the special uses rules or agency procedure.

To fully implement the Act, the Forest Service proposes to make certain technical changes and to add serveral new provisions to the existing rules in Subpart B of Part 251 as follows:

1. *Authority Citation.* The Act would be added to the authority citation for the subpart.

2. *Section 251.51—Definitions.* This section is proposed to be changed by including a definition of what constitutes a ski area. This is necessary to determine what specific existing and future resorts and facilities would qualify for a special use authorization under this National Forest Ski Area Permit Act. This section will be revised by removing the alphabetical designations and placing all defined terms in alphabetical order.

3. *Section 251.52—Authorities.* The introductory text to § 251.53, listing the types of special uses that may be permitted on National Forest System Lands and the applicable statute authorizing each permissible use, would be revised to remove redundancy and to improve clarity. Section 251.53 would be further revised to add a new paragraph (n) citing authority to issue special use authorizations for nordic and alpine ski areas and facilites for up to 40 years and for such acreage as necessary.

4. *Section 251.56—Terms and Conditions.* Paragraph (b) of this section in the existing regulation addresses duration and renewability for all special use authorizations. Under the proposed rule the existing text would be redesignated as (b)(1) *Requirements applicable to all permits.* A new paragraph (b)(2) would be added to provide guidance to authorized officers on when to issue 40 year ski area permits and the criteria to apply in determing whether a permit term of less than 40 years is appropriate.

The proposed rule would direct the authorized officer normally to issue a ski area permit for 40 years if, upon consideration of information from the applicant, the officer finds that existing or planned investment meets the following criteria: (1) The investment is sufficiently related to development of ski area facilities primarily located on National Forest System lands, (2) It is not for operation and maintenance, (3) It is for non-Government owned facilities, and (4) The number and magnitude of the facilities clearly require long-term financing and/or operation consistent with the stated purpose of the Ski Area Permit Act. The criteria address the extent of proposed private investment in ski area development and places the burden on the applicant to demonstrate in the application that a full 40-year term is required to finance the development.

At paragraph (b)(2)(ii), the proposed rule would establish the criteria the authorized officer shall apply in deciding whether a permit of less than 40 years is appropriate. Specifically the rule would authorize a shorter duration if, in the judgment of the authorized officer, the information submitted by the applicant indicates that a shorter term is sufficient for financing the ski area development, the development does not meet the standards required for a 40-year term permit, or the 40-year term would be inconsistent with the forest resource and land management plan for the area. These criteria are consistent with the intent of the National Ski Area Permit Act, which preserves the discretion of the authorized officer to determine the duration of a permit.

5. Two new paragraphs would be added to § 251.56 becoming § 251.56(g) and § 251.56(h). The first (g) would specify criteria for converting existing special use authorizations for ski areas, restating the Congressional intent that all authorizations after October 22, 1989, for ski areas will be under the authority of the Act. All current holders of ski area special use authorizations would be requested to convert to a new special use authorization consistent with the provisions of the National Forest Ski Area Permit Act; the right to give or withhold consent remains with the permit holder as provided for in the Act. The holder must be in good standing by being in compliance with the existing permit, by having paid all fees currently due for the use of National Forest System land for the permitted use, and by meeting the standards provided for in paragraphs (b)(2)(i)(A)–(F) of the proposed rule for the existing or planned development. The second paragraph § 251.56(h), would require the Forest Service when issuing a ski area permit to specify those provisions of the permit subject to periodic revision. The Act provides that the ski aea authorization issued under the Act may be modified to accommodate changes in plans or operations. In fairness to holders of the special use authorization, it is important that they be made aware of those clauses of the authorization which may be subject to change under this provision of the Act. A current rule at § 251.56(b) provides that terms and conditions for permits issued for more than 30 years may be modified to reflect changing times and conditions. This rule is not proposed to be changed, and is necessary to comply with the National Forest Management Act. Section 6(i) of that Act requires that the various agreements permitting the use and occupancy of National Forests System lands be consistent with land management plans.

6. *Section 251.57—Rental Fees.* This section would be amended to require a clause providing in ski area permits for changing the fee system or for making changes to the current fee system. Current regulation and the Act require a fee based on fair market value. The current fee system for ski areas and other resorts is 20 years old. In the event a new method of obtaining fair market value is developed, all ski areas should become subject to the new system. Otherwise, technical changes to the Graduated Rate Fee System will continue and be placed in special use permits as provided for in § 251.61(a)(1).

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order 12291. It has been determined that this regulation is not a major rule. Little or no effect on the economy will result from this regulation since it affects only those parties who occupy or use land within the National Forest System for ski area development. The effect of the law is to marginally increase net benefits to the Government and the permittees by reducing the number of special use permits issued and thus the administrative costs associated with issuance. The issuing of regulations and the conversion of all existing ski area permits to the new authority, subject to permittee concurrence, are requirements of the law governing ski area permits. The rule itself will have no effect on the amounts paid the government for the use of National Forest System lands.

The Department of Agriculture has determined that this action will not have a significant effect on a substantial number of small entities. furthermore, it does not directly result in additional procedures or paperwork not already required by law. The special use authorization and application procedures applicable to obtaining new ski area permits are already cleared for the uses of this proposed rule and have been assigned OMB control No. 0596–0082. These information collection requirements are approved for use through August 31, 1989.

Where, as provided by this proposed rule, permittees seek to convert an existing permit to a permit issued under the authority of the Ski Area Permit Act and to request modifications in the terms and conditions of the existing permit, permittees may be required to provide additional financial information in order for the authorized officer to determine that a 40-year term or other

modification of permit provisions is appropriate and meets the standards of § 251.56(b) of the proposed rule. The Forest Service estimates that about 10 of the existing 165 permittees might be subject to a request for additional financial information requiring 80–160 hours per permittee to collect and submit the information.

The Office of Management and Budget has determined that this requirement for additional financial information represents a new information requirement as defined in 5 CFR Part 1320. In accordance with those rules and the Paperwork Reduction Act (44 U.S.C. 3507), the Forest Service is requesting Office of Management and Budget review and approval of the requirement for additional financial information. Reviewers who wish to comment on this information requirement should submit their views to the Chief of the Forest Service at the address listed earlier in this document as well as to the: Forest Service Desk Office, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Based on past experience and environmental analysis, this rule in and of itself will have no significant effect on the human environment, individually of cumulatively. Therefore, it is hereby excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4)

List of Subjects in 36 CFR Part 251

Electrical power, Mineral resources, National forests, Public lands rights-of-way, Reporting and recordkeeping requirements, Water resources.

Therefore, for the reasons set forth in the preamble, Subpart B—Special Uses of Part 251 of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

PART 251—LAND USES

Subpart B—Special Uses

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

Authority: 16 U.S.C. 472, 497b, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761–1771.

2. In § 251.51, remove the lettered paragraph designations and add the following definition in the appropriate alphabetical order:

§ 251.51 Definitions.

* * * * *

"Ski area"—a site and attendant facilities expressly developed to accommodate alpine or nordic skiing and from which the preponderance of revenue is generated by the sale of lift tickets and fees for ski rentals, for skiing instruction and for the use of permittee-maintained ski trails. A ski area may also include ancillary facilities directly related to the operation and support of skiing activities.

* * * * *

3. In § 251.53, revise the introductory text and add a new paragraph (n) to read as follows:

§ 251.53 Authorities.

Subject to any limitations contained in applicable statutes, the Chief of the Forest Service, or other Agency official to whom such authority is delegated, may issue special use authorizations for National Forest System land under the authorities cited and for the types of use specified in this section as follows:

* * * * *

(n) Operation of nordic and alpine ski areas and facilities for up to 40 years and encompassing such acreage as determined necessary as authorized by the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

4. In § 251.56 revise paragraph (b) and add new paragraph (g) and (h) to read as follows:

§ 251.56 Terms and conditions.

* * * * *

(b) *Duration and renewability*—(1) *Requirements applicable to all authorizations.* If appropriate, each special use authorization will specify its duration and renewability. The duration shall be no longer than the authorized officer determines to be necessary to accomplish the purpose of the authorization and to be reasonable in light of all circumstances concerning the use, including (i) Resource management direction contained in land management and other plans; (ii) public benefits provided; (iii) cost and life expectancy of the authorized facilities; (iv) financial arrangements for the project; and (v) the life expectancy of associated facilities, licenses, etc. Authorizations exceeding 30 years shall provide for revision of terms and conditions at specified intervals to reflect changing times and conditions.

(2) *Ski area permits.* (i) For authorizations issued under the National Forest Ski Area Permit Act of 1986, the authorized officer normally shall issue a ski area authorization for 40 years, if, upon consideration of information submitted by the applicant, the authorized officer finds that the ski area development meets the following standards:

(A) In the case of an existing permit holder, existing on-site investment is of sufficient magnitude to justify authorization for 40 years;

(B) In the case of an existing permit holder, existing investment of capital is in ski-related facilities;

(C) Planned investment capital is directly related to development of ski area facilities and is not for financing regular, ongoing operation and maintenance costs;

(D) Ski facilities requiring long-term investment are, or will be, located predominately on land authorized under a permit;

(E) The number and magnitude of planned facilities, as detailed in a Master Development Plan, clearly require long-term financing and/or operation;

(F) The United States is not the owner of the principal facilities within the authorized ski area.

(ii) A term of less than 40 years shall be authorized for a ski area when the applicant requests as shorter term or when, in the authorized officer's discretion:

(A) Analysis of the information submitted by the applicant indicates that a shorter term is sufficient for financing of the ski area;

(B) The ski area development, whether existing or proposed, does not meet the standards of paragraph (b)(2)(i)(A)–(F) of this section; or

(C) A 40-year authorization would be inconsistent with the approved forest land and resource management plan governing the area (36 CFR Part 219).

* * * * *

(g) *Conversion of ski area authorizations.* (1) The Forest Service shall request that all existing permit holders convert existing authorizations for ski areas to a new authorization issued pursuant to the National Forest Ski Area Permit Act.

(2) Any current holder of a ski area permit who wishes to convert an existing permit to one issued pursuant to the National Forest Ski Area Permit Ski must submit a written request for the new authorization to the authorized officer.

(3) With the consent of the holder, the authorized officer shall convert the authorization if:

(i) The holder is in compliance with the existing authorization;

(ii) All fees currently due under the existing authorization are paid in full; and

(iii) Any proposed modifications of term and conditions of the existing authorization included in a request for conversion meet the standards of paragraphs (b)(2)(i)(A)–(F) of this

section and the relevant requirements of this subpart.

(4) A holder retains the right to decline a new authorization offered pursuant to this paragraph and to continue to operate under the terms of the existing permit. However, renewals and, pursuant to the rules at § 251.61 of this subpart, major modifications of existing permits require conversion to a permit issued under the authority of the National Forest Ski Area Permit Act.

(h) *Periodic revisions of ski area authorizations.* Each ski area authorization issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be subject to modification of its provisions at 10-year intervals or upon amendment of the forest land and resource management plan governing the area (36 CFR Part 219). The permit shall specify those clauses or provisions subject to modification.

7. In § 251.57, add a new paragraph (h) as follows:

§ 251.17 Rental fees.

* * * * *

(h) Each ski area authorization issued under the authority of the National Forest Ski Area Permit Act shall include a clause that the Forest Service may adjust and calculate future rental fees to reflect Agency revisions to the existing fee determination system or to comply with any new determination system that may be adopted after issuance of the authorization.

Date: September 6, 1988.

George M. Leonard,

Associate Chief.

[FR Doc. 88-24025 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty: Suspension of Individual Employees of Manufactured Home Dealers and Manufactured Home Park Owner/Operators; Suspension of Real Estate Brokers and Agents

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration (VA) is proposing to amend its loan guaranty regulations (38 CFR Part 36) by providing for the suspension of individual owners, officers, and employees of a manufactured home dealer or a manufactured home park owner/operator who are directly responsible for fraud or misrepresentation in marketing and selling manufactured homes purchased with VA guaranteed loans or in renting or selling sites for such homes. The proposal also provides for the suspension of any participating dealer or park owner/operator employing a suspended individual, as a lot manager, sales manager, sales person, or in any other position with responsibility in marketing and selling manufactured homes with VA-guaranteed loans, or in renting or selling sites for such homes. In addition, any real estate brokers or agents responsible for fraud or misrepresentation in selling sites for such homes may be suspended under this proposal. The purpose of the proposed amendment is to give the VA more flexibility in applying sanctions to individuals who are working as employees of a dealer or of a park owner/operator and are found to have committed fraud or to have been responsible for material misrepresentation in the marketing and sale of manufactured homes purchased with loans guaranteed by the VA or in the rental or sale of sites for such homes.

DATES: Comments must be received on or before November 17, 1988. Comments will be available for public inspection until December 2, 1988. The VA proposes to make these regulations effective 30 days after publication of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Service Unit, Room 132 of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 2, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Department of Veterans Benefits, (202) 233-3042.

SUPPLEMENTARY INFORMATION: The governing statutes and regulations currently provide that the Administrator may, subject to notice and the opportunity for a hearing, refuse to guarantee loans for purchase of manufactured homes offered for sale by a dealer. These sanctions may be imposed upon a finding by the VA that the dealer has used marketing practices that are unfair or prejudicial to the veteran, or has used an unfair contract of sale, or has failed or is unable to meet the terms of the sales contract, or has offered manufactured homes for sale that have substantial deficiencies. The statutes and regulations also currently provide that the Administrator may, subject to notice and the opportunity for a hearing, refuse to approve any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods or whose procedures, requirements or practices are determined to be unfair or prejudicial to veterans renting or purchasing such sites.

This proposal will define the terms "dealer" and "manufactured home park owner/operator" in the suspension regulations to include principals, officers, and employees. This will provide specific regulatory authority for suspending individuals who are directly responsible for material misrepresentation or fraud in the marketing and sale of manufactured homes purchased with VA-guaranteed loans or in the rental or sale of sites for such homes. It will also provide authority for suspending individuals in a supervisory or managerial position who either willfully or negligently encourage or overlook irregular practices by employees under their supervision or otherwise do not exercise supervisory controls of employees taking actions which are detrimental to veterans or the Government.

The proposal will make it possible for the VA to suspend specific employees of a dealership or of a park who are responsible for fraud or material misrepresentation in the sale of manufactured homes purchased with VA-guaranteed loans or in the rental or sale of sites for such homes without the necessity of first suspending the dealer or park owner/operator for whom that employee is working. Some large dealers and park owners/operators operate regionally or nationwide. It would be inequitable and counterproductive in some circumstances to suspend an entire regional or national dealer or an entire regional or national park owner/operator because of the improper conduct of one or more employees of that firm located in one of its branches. It would, however, be appropriate for the VA to suspend the errant employee or employees in that office from further participation in the sale of manufactured homes purchased with VA-guaranteed loans or in the rental or sale of sites for such homes. This situation demonstrates the need for a revision of the regulations to provide a definition of the terms dealer and manufactured home park owner/operator that includes officers, principals, and employees.

Under present procedures a notice of suspension to a dealer or park owner/operator is effective as to agents, representatives, and correspondents when acting for or on behalf of the person or entity suspended. When these individuals, including employees of the suspended dealer or park owner/operator, (are not specifically named and included in a suspension, they may then be employed by a different dealer or park owner/operator) with impunity. Individual employee suspensions would be an effective method of preventing these individuals from becoming employed by a different dealership or park owner/operator, where they might continue fraudulent or irregular practices in selling manufactured homes with the assistance of VA-guaranteed loans.

In addition to providing a definition of dealer and manufactured home park owner/operator, the proposed amendments will provide for the VA to suspend a dealer or park owner/operator who employs a suspended person as a salesperson, lot manager, sales manager, or in any other managerial capacity with responsibility in the decisionmaking process. Any secondarily suspended dealer or park owner/operator would have a right to notice and an opportunity for a hearing in the same manner as any program participant that has been sanctioned by the VA. Any secondarily suspended dealer or park owner/operator would be reinstated automatically upon terminating the employment of the suspended employee.

The regulations currently provide that the Administrator may, subject to notice and the opportunity for a hearing, suspend a real estate agent or broker whom the Administrator has determined is responsible for fraud or material misrepresentation in the sale of residential properties, including manufactured home sites, purchased with loans guaranteed by the VA under 38 U.S.C. 1810. The proposed amendments will extend this suspension authority of the VA to include brokers and agents who sell manufactured home sites purchased with loans guaranteed under 38 U.S.C. 1812.

In addition, 38 CFR Part 44, Nonprocurement Debarment and Suspension, contains regulations on interagency debarment and suspension of program participants, including the parties subject to these proposed amendments.

Technical amendments have been made to the appropriate sections of the regulations to change the term "mobile home" to "manufactured home." These changes are made so that the terminology of the regulations will be in conformity with the language of Pub. L. 97–306, 96 Stat. 1429, enacted October 14, 1982.

The Administrator hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these proposed amendments will not directly affect any small entity except to the extent that it may be precluded from employing a small number of suspended individuals.

The Administrator has also determined that the proposed regulatory amendments are not a "major rule" within the meaning of Executive Order 12291, Federal Regulation. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers or individual industries, nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

These amendments are proposed under the authority granted the Administrator by sections 210(c) and 1812 of Title 38, United States Code.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan program—Housing and community development, Manufactured homes, Veterans.

Approved: September 13, 1988.

Thomas K. Turnage,

Administrator.

PART 36—[AMENDED]

38 CFR Part 36, Loan Guaranty, is amended as follows:

1. The "NOTE" preceding § 36.4201 is revised to read as follows:

Note.—Those requirements, conditions or limitations which are expressly set forth in 38 U.S.C. 1812 and are not restated herein must be taken into consideration in conjunction with the § 36.4200 series.

§ 36.4201 [Amended]

2. In § 36.4201 remove the words "38 U.S.C. 1819" and add, in their place the words "38 U.S.C. 1812".

3. Section 36.4202 is revised to read as follows:

§ 36.4202 Definitions.

Wherever used in 38 U.S.C. 1812 or the § 36.4200 series, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated.

"Administrator." The Administrator of Veterans Affairs, or any employee of the VA authorized to act in the Administrator's stead.

"Date of first uncured default." The due date of the earliest payment not fully satisfied by the proper application or available credits or deposits.

"Dealer." A sole proprietorship, partnership, or corporation engaged in buying and selling manufactured homes. This term also includes the owners, officers, and employees of a sole proprietorship, partnership, or corporation undertaking the sale of manufactured homes purchased with loans guaranteed by the VA.

(Authority: 38 U.S.C. 1812(k))

"Default." Failure of a borrower to comply with the terms of a loan agreement.

"Guaranty." The obligation of the United States, assumed by virtue of 38 U.S.C. 1812, to repay a specified percentage of a loan upon default of the primary debtor, which guaranty payment shall be made after liquidation of the security for the loan and an accounting with the Administrator.

"Holder." The lender or any subsequent assignee or transferee of the guaranteed obligation.

"Indebtedness." The unpaid principal and interest plus any other amounts allowable under the terms of a loan including those authorized by statute and consistent with the 36.4200 series, which have been paid and debited to the loan account. Unpaid late charges may not be included in the indebtedness.

"Lender." The payee or assignee or transferee of an obligation at the time it is guaranteed. This term also includes any sole proprietorship, partnership, or corporation and the owners, officers, and employees of a sole proprietorship, partnership, or corporation engaged in the origination, procurement, transfer, servicing or funding of a loan which is guaranteed by the VA.

(Authority: 38 U.S.C. 1804(d); 1819(g))

"Lien." Any interest in, or power over, real or personal property, reserved by the vendor, or created by the parties or by operation of law, chiefly or solely for the purpose of assuring the payment of the purchase price, or a debt, and irrespective of the identity of the party in whom title to the property is vested, including but not limited to mortgages,

deeds with a defeasance therein or collaterally, deeds of trust, security deeds, security instruments, mechanics' liens, lease-purchase contracts, conditional sales contracts, consignments.

"Loan." Unpaid principal balance plus unpaid earned interest due under the terms of the obligation.

"Lot." A parcel of land acceptable to the Administrator as a manufactured home site.

(Authority: Pub. L. 97-306, sec. 406)

"Manufactured home." A movable dwelling unit designed and constructed for year-round occupancy on land by a single family, which dwelling unit contains permanent eating, cooking, sleeping, and sanitary facilities. A double-wide manufactured home is a movable dwelling designed for occupancy by one family consisting of (1) two or more units intended to be joined together horizontally when located on a site, but capable of independent movement or (2) a unit having a section or sections which unfold along the entire length of the unit.

(Authority: Pub. L. 97-306, sec. 406)

"Manufactured home park owner/operator." A sole proprietorship, partnership, or corporation engaged in renting or selling sites in a manufactured home park or subdivision. This term also includes the owners, officers, and employees of a sole proprietorship, partnership, or corporation undertaking the sale or rental of sites for manufactured homes purchased with loans guaranteed by the VA.

(Authority: 38 U.S.C. 1812(k))

"Manufacturer's invoice cost." That figure shown on a document acceptable in form and content to the Administrator issued by the manufacturer which represents the wholesale price of a specifically identified manufactured home including any furnishings, equipment and accessories installed by the manufacturer, which document is certified as the true manufacturer's invoice for that particular manufactured home and which separately states the amount of freight or transportation cost charged to the dealer, if any.

(Authority: Pub. L. 97-306, sec. 406)

"Necessary site preparation." Those improvements essential to render a manufactured homesite acceptable to the Administrator including, but not limited to, the installation of utility connections, sanitary facilities and paving, and the construction of a suitable pad.

(Authority: Pub. L. 97-306, sec. 406)

"New manufactured home." A manufactured home which, at the time of purchase by the veteran-borrower, has not been previously occupied and was manufactured less than 1 year prior to the date of application to the VA for loan guaranty.

(Authority: Pub. L. 97-306, sec. 406)

"Reasonable value." That figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions.

"Repossession-repossessed." Recovery or acquisition of such physical control of property (pursuant to the provisions of the security instrument or as otherwise provided by law) as to make further legal or other action unnecessary in order to obtain actual possession of the property or to dispose of the same by sale or otherwise.

"Resale." Sale of the property by the holder to a third party for the purpose of liquidating the security for the loan after having acquired the property by repossession, public or private sale, or by any other means.

"Used manufactured home." A manufactured home which has been previously occupied or which was manufactured more than 1 year prior to date of loan application.

§ 36.4203 [Amended]

4. In § 36.4203, in the section heading, remove the words "38 U.S.C. 1819" and add, in their place, the words "38 U.S.C. 1912".

In paragraph (b) remove the words "38 U.S.C. 1810, 1811, and 1819" where they appear and add, in their place, the words "38 U.S.C. 1810, 1811, and 1812".

In the authority citation at the end of § 36.4203 remove the words "38 U.S.C. 1819(b) (1) and (2) and (c)(4)" and add, in their place the words "38 U.S.C. 1812(b) (1) and (2) and (c)(4)".

§ 36.4204 [Amended]

5. In the authority citation at the end of § 36.4204 remove the words "38 U.S.C. 1819(a)(1)" and add, in their place, the words "38 U.S.C. 1812(a)(1)".

§ 36.4234 [Amended]

6. In § 36.4234 remove the word "mobile" and add, in its place, the word "manufactured" in the following places:

(a) § 36.4234(a) introductory text;

(b) § 36.4234(a)(1);

(c) § 36.4234(b);

(d) § 36.4234(c).

7. In § 36.4235, the section heading and paragraph (a) are revised to read as follows:

§ 36.4235 Suspension of dealers and manufactured home park operators.

(a) A dealer may be suspended from guaranty of loans for veterans to purchase manufactured homes offered for sale by the dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers. A dealer may also be suspended under this section if the company is owned by, or employs as an officer, supervisor, lot manager, sales manager, salesperson, or in any other position, a person who engages in or is responsible for the marketing and sale of manufactured homes purchased with loans guaranteed by the VA or if that person is suspended by the VA. A manufactured home park owner/operator may be suspended from having sites approved as acceptable for sale or rental to veterans purchasing manufactured homes with VA-guaranteed loans if the Administrator determines that the rental or sale methods, precedures, requirements, or practices used in selling or renting such sites are unfair or prejudicial to veterans. A manufactured home part owner/operator may also be suspended under this section if the company is owned by, or employs as an officer, supervisor, salesmanager, salesperson, or in any other position, a person who engages in, or is responsible for, the rental or sale of sites for manufactured homes purchased with VA-guaranteed loans, if that person has previously been suspended by the VA under this section.

(Authority: 38 U.S.C. 1812(k))

* * * * *

8. In § 36.4285, the introductory text of paragraph (f) is revised to read as follows:

§ 36.4285 Subrogation and indemnity.

* * * * *

(f) If, on or after July 1, 1972, any veteran disposes of residential property securing a guaranteed loan obtained by him or her under 38 U.S.C. 1812, without securing release from liability with respect to such loan under 38 U.S.C. 1813(a) and a default subsequently occurs which results in liability of the veteran to the Administrator on account

of the loan, the Administrator may relieve the veteran of such liability if the Administrator determines that:

* * * * *

§ 36.4286 [Amended]

9. In § 36.4286(b) introductory text and (b)(1) remove the words "38 U.S.C. 1819" and add, in their place, the words "38 U.S.C. 1812".

10 Section 36.4288 is added to read as follows:

§ 36.4288 Right of the Administrator to refuse to appraise sites for manufactured homes.

The Administrator may, subject to notice and opportunity for a hearing, refuse to appraise sites for manufactured homes to which a request for appraisal relates if the Administrator determines that any party or parties involved or substantially interested in the sale of such site has used sales methods, procedures, requirements, or practices determined by the Administrator to be unfair or prejudicial to veterans purchasing such sites. The refusal to appraise procedures prescribed in § 36.4361 of this part may be applied to a site to which a request for appraisal relates where the veteran will place a manufactured home on the site and where all or part of the cost of acquiring the site is financed by a loan guaranteed under 38 U.S.C. 1812.

(Authority: 38 U.S.C. 1812(k))

[FR Doc. 88-23934 Filed 10-17-88; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3464-1; Ky-031]

Approval and Promulgation of Implemenation Plans; Kentucky: Alcan Foil Products Bubble

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to disapprove a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky for the Air Pollution Control District of Jefferson County (District). The SIP revision would provide for the Alcan Foil Products (Alcan) facility in Louisville, Kentucky (Jefferson County), to achieve compliance with the applicable volatile organic compound (VOC) reasonably available control technology (RACT) regulations by averaging or "bubbling" of emissions within the facility. The proposed bubble is not consistent with current Agency policy.

The public is invited to submit written comments on this proposed action.

DATE: To be considered, comments must reach us on or before November 17, 1988.

ADDRESSES: Written comments should be addressed to Kay T. Prince of EPA Region IV's Air Programs Branch (see ERA Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Building #2, Fort Boone Plaza, Frankfort, Kentucky 40601.

Air Pollution Control District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Kay T. Prince, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The Alcan facility in Louisville contains eight laminators and two coaters which are capable of performing either coating or rotogravure printing on aluminum foil. Such operations are generally covered by the paper coating and the graphic arts control technology guideline (CTG) documents, respectively. EPA policy mandates, however, that where both coating and printing are performed on the same machine, the graphic arts CTG shall apply. Therefore, each unit was determined to be subject to District Regulation 6.29, "Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography." The graphic arts RACT regulation required a 65 weight percent reduction in VOC emissions from each rotogravure printing line. Water-borne inks with a volatile portion of 75 volume percent water and 25 volume percent organic solvent (or lower VOC content) are exempt from the provisions of Regulation 6.29.

On March 3, 1986, the Commonwealth of Kentucky, through the Natural Resources and Environmental Protection Cabinet, officially submitted a source-specific SIP revision prepared by the District for the Alcan facility. The SIP revision would allow Alcan to average or "bubble" VOC emissions from the eight laminators and two coaters in lieu of achieving compliance with the graphic arts RACT regulation on a line by line basis. Specifically, the proposed bubble provided for demonstration of compliance by: (1) Utilizing a monthly averaging period with a daily cap of 6.0 tons per day; (2) taking credit for reductions in emissions due to incineration and water based coatings; and (3) purchasing approximately 50 tons of emission reduction credits. The District was advised on May 22, 1986, and again on July 7, 1986, that the proposed SIP revision was deficient and that upon publication of EPA's final emissions trading policy the Alcan bubble should be revised. On December 4, 1986, (51 FR 43814), EPA published the final Emissions Trading Policy Statement (ETPS). However, the District neither revised nor withdrew the proposed SIP revision. The Alcan bubble has been determined to be inconsistent with current Agency policy.

First of all, monthly averaging of VOC emissions is not generally allowed. Current Agency policy, as is specified in the January 20, 1984, John O'Connor memorandum concerning "averaging times for compliance with VOC emission limits," expressly prohibits averaging periods from exceeding 24 hours. However, the memorandum states that "where the source operations are such that daily VOC emissions cannot be determined or where the application of RACT for each emission point (line, machine, etc.) is not economically or technically feasible on a daily basis, longer averaging times (greater than 24-hour averaging) can be permitted under certain conditions." This memorandum was incorporated into EPA's ETPS in Appendix D of the Technical Issues Document. No such demonstration has been submitted by the District.

Secondly, the ETPS states that only reductions which are surplus, enforceable, permanent, and quantifiable can qualify as emission reduction credits to be used in a trade (51 FR 43831). Surplus emission reductions are defined as those reductions which are not required by current regulations in the SIP, not already relied on for SIP planning purposes, and not used by the source to meet any other regulatory requirement. The Alcan bubble claims credit for reductions in VOC emissions achieved as the result of incineration. An incinerator was installed on laminator #12 in 1974 while the base year for the 1982 SIP was 1980. Generally, there can be no credit for reductions in emissions prior to the base year. An exception to

the rule would be if it could be established that the emission reductions resulting from the incinerator were not accounted for nor relied upon in the SIP's attainment demonstration. However, the county was unable to provide any data which would support such a claim. Therefore, the emission reductions resulting from the installation of the incinerator on line #12 are not surplus to the demonstration and cannot be used as credit in a trade.

In addition to the deficiencies listed herein, this action fails to meet several other requirements of the Clean Air Act, EPA's ETPS, or other EPA policy or regulations. These include the emission limits not being expressed in an enforceable form as required by the ETPS and the baseline not being calculated consistent with the requirements of the ETPS. This notice does not discuss these deficiencies because the submission does not meet the requirement of the ETPS that the trade be surplus and contains averaging times greater than 24 hours without meeting the requirements specified in the January 20, 1984, John O'Connor memorandum. These two deficiencies in themselves provide enough reason to propose disapproval of the action. To determine the applicable requirements and ascertain how this action may be rewritten as an approvable emissions trade, the applicant or state agency should consult the December 4, 1986, ETPS (51 FR 43814), Appendix D of the proposed Ozone/Carbon Monoxide Nonattainment policy of November 24, 1987 (52 FR 45105), and the enforceability checklist included in a September 23, 1987, memorandum from J. Craig Potter, Thomas L. Adams, Jr., and Francis S. Blake re: "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency."

Furthermore, on May 26, 1988, EPA issued an ozone SIP call for the Louisville metropolitan statistical area (MSA). Therefore, any future revision of the bubble package will require application of lowest of actual-SIP-allowable-or-RACT-allowable emissions baseline and at least a 20% emissions reduction from that baseline as well as state assurances required by the ETPS for bubbles in areas lacking an approved attainment demonstration. In order for Louisville to demonstrate attainment with the ozone standard, additional reductions required may directly impact this source.

For a more detailed discussion, please refer to the Technical Support Document which is available for inspection at the EPA Region IV office.

Proposed Action

The Alcan bubble is not consistent with EPA's ETPS. Therefore, EPA is today proposing to disapprove this revision to the Jefferson County, Kentucky SIP.

The public is invited to participate in this rulemaking by submitting written comments on the proposed action.

Under 5 U.S.C. Section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities because it applies to only one source, Alcan. (See 46 FR 8709.)

Under Executive Order 12291, this action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. Sections 7401–7642.

Date: August 26, 1987.

Lee A. DeHihns III,

Acting Regional Administrator.

[FR Doc. 88–23962 Filed 10–17–88; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 52

[FRL–3463–9; TN–058]

Approval and Promulgation of Implementation Plans; Tennessee: William L. Bonnell Company Variance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve a request by Tennessee that a temporary variance granted to the William L. Bonnell Company ("Bonnell Company") to use a special coating on its architectural extrusions and panels be incorporated into the Tennessee State Implementation Plan (SIP). This proposed approval is contingent upon a submittal by the State of Tennessee which adequately demonstrates that add-on controls are infeasible financially and/or technologically. These operations are governed by Rule 1200–3–18–.21 of the Tennessee Air Pollution Control Regulations (Surface Coating of Miscellaneous Metal Parts). The Tennessee Air Pollution Control Board has approved a revision to Rule 1200–3–18–.21 to establish a special standard for the high performance architectural coatings. The revision will not become effective until it completes the State rulemaking process. The temporary variance extends until September 16, 1987, or until the revision establishing the special standard for the high performance architectural coatings is effective, whichever, is sooner. EPA will act on the regulation revision adding a special standard for high performance architectural coatings in a separate notice.

The public is invited to submit written comments on this proposed action.

DATES: To be considered, comments must reach us on or before November 17, 1988.

ADDRESSES: Written comments should be addressed to Kay Prince of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Tennessee Air Pollution Control Division, Customs House, 4th Floor, 701 Broadway, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Kay Prince, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: The Bonnell Company architectural extrusions and panels at its plant in Carthage, Tennessee. Carthage is located in Smith County, Tennessee; Smith County is an unclassified area for ozone. Coating on aluminum panels is currently governed by Rule 1200–3–18–.21 (Surface Coating of Miscellaneous Metal Parts) of the Tennessee Air Pollution Control Regulations. Rule 1200–3–18–.21 requires that VOC emissions be less than 3.5 pounds per gallon (0.43 kilogram per liter) of coating, excluding water, delivered to a coating applicator in an extreme performance coating operation.

The Bonnell Company is operating under a temporary variance which extends from September 17, 1986 to September 16, 1987 and which allows the facility to increase its VOC emission limit for high performance architectural coatings from 3.5 pounds per gallon to 6.2 pounds per gallon.

The Tennessee Air Pollution Control Board has approved a proposal to establish a special standard for the high performance architectural coatings. The proposed revision to Rule 1200–3–18–.21 contains the same emission standard (0.75 kilogram per liter; 6.2 pounds per gallon) set forth in the temporary

variance. An emission limit of 0.75 kg/l is currently used for high performance architectural coatings in California. EPA will act on this revision of Rule 1200–3–18–.21 in a separate notice. The temporary variance extends until September 16, 1987, or until the revision establishing the special standard for the high performance coatings is effective, whichever is sooner.

Smith County is adjacent to the metropolitan statistical area (MSA) surrounding the Nashville nonattainment area. However, due to the Bonnell Company's location in Smith County and the fact that Smith County is an unclassified area for ozone, it is presumed that the temporary variance will not have an adverse effect on air quality in the Nashville MSA. Approval of this SIP revision will not increase the historical VOC emission level from this source. Under U.S. EPA's existing policy, no demonstration of attainment or maintenance is required in the SIP for unclassified areas for ozone.

For more detailed information, please refer to the Technical Support Document. This document is available for inspection at the EPA Region IV office.

Proposed Action

The proposed SIP revision to the Tennessee ozone SIP is consistent with current agency policy. Therefore, EPA is today proposing to grant a temporary variance which allows the Bonnell Company to use noncomplying coatings in its high performance architectural coating operations. This proposed approval is contingent upon submission by the State of Tennessee of a study which adequately demonstrates that add-on controls are infeasible economically and/or technologically.

The public is invited to participate in this rulemaking by submitting comments on the proposed action.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Date: August 31, 1988.

Lee A. DeHihns III

Acting Regional Administrator.

[FR Doc. 88–23959 Filed 10–17–88; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Special Committee on Financial Services of the Administrative Conference of the United States. The Committee has scheduled this meeting to develop proposed recommendations dealing with Bank Failures Risk Monitoring, and the Market for Corporate Control, based upon a report by Professors' Jonathan R. Macey of Cornell University Law School and Geoffrey Miller of the University of Chicago Law School. Copies of the Committee's report and draft recommendation may be obtained from the contact person named in this notice.

Date: Wednesday, October 19, 1988, at 9:00 a.m.

Location: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Brian C. Murphy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers,

Research Director.

October 5, 1988.

[FR Doc. 88–23991 Filed 10–17–88; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gravina-Big Islands Management Area Analysis

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service is preparing an environmental impact statement for proposed activities to occur under Management Area Analysis for the Gravina and Big Islands Management Areas in Prince William Sound, Chugach National Forest, Alaska. Notice of Intent was published in 52 FR 37808 on October 9, 1987. The draft environmental impact statement (DEIS) was originally scheduled for completion in June 1988.

The two management areas are very distinct in terms of management activities proposed for the areas and issues identified by the public. They are also two distinct geographic areas that lend themselves to separate analysis. For this reason I have decided to conduct separate analysis of the two areas. The DEIS for the Big Islands Management Area is scheduled for release January 1988. The DEIS for the Gravina Management Area is scheduled for operation March 1989.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Fred Patten, Forest Planning Staff Officer, Chugach National Forest, 201 E. Ninth Avenue, Anchorage, Alaska 99501, phone 907–271–2557.

Date: October 4, 1988.

Dalton Du Lac,

Forest Supervisor.

[FR Doc. 88–23935 Filed 10–17–88; 8:45 am]

BILLING CODE 3410–11–M

Bear Creek Timber Sale Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service USDA will prepare an environmental impact statement for timber harvest including road construction and reforestation within the former Pattison roadless area of the Hayfork Ranger District, Shasta-Trinity National Forests, Trinity County, California. The agency invites written comments and suggestions on the scope on the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by November 18, 1988.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to: Forest Supervisor Robert R. Tyrrel, Shasta-Trinity National Forests, Attn: Bear Creek Timber Sale EIS, 2400 Washington Avenue, Redding, CA 96001.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to District Ranger David Wickwire, Hayfork Ranger District, Hayfork, California 96041. Telephone (916) 628–5227.

SUPPLEMENTARY INFORMATION: This project proposes the development of a currently unroaded area that was identified during the RARE II (Roadless Area Review and Evaluation) analysis as the Pattison area. This area was released for multiple-use management by the 1984 California Wilderness Act.

The environmental impact statement will be prepared in accordance with existing approved land and resource management plans. The analysis will set standards and guidelines for management activities, and provide a schedule of these activities. Alternative locations of timber harvest units and roads will be identified and evaluated.

A range of alternatives will be examined to deal with the significant issues developed during the scoping process. One alternative will be No Action. Other alternatives will consider

various levels, types, and locations of timber harvest and alternative locations and methods of access.

Robert R. Tyrrel, Forest Supervisor, Shasta-Trinity National Forests, Reddding, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS).

The scoping process includes:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploration of additional alternatives.
5. Identification of potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determination of potential cooperating agencies and task assignments.

The draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date the EPA notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the above described areas participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp. v. NRDC,* 435 U.S.; 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by July 1989. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsive official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to the administrative review process.

Robert R. Tyrrel,

Forest Supervisor.

Date: October 11, 1988.

[FR Doc. 88-24018 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Oglethorpe Power Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact relating to the construction of 230 kV transmission line and substation facilities in Fayette County, Georgia.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No significant Impact (FONSI) with respect to construction of a 4.7 mile, double circuit, 230 kV transmission line on single steel support structures and a new 230/12 kV substation. Oglethorpe Power Corporation (OPC), of Tucker, Georgia, has requested approval to use general funds to construct the project.

FOR FURTHER INFORMATION CONTACT: Alex M. Cockey, Jr., Director, Southeast Area—Electric, Room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8436.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request from OPC for approval to use general funds to construct the project, required that OPC develop a Borrower's Environmental Report (BER) reflecting the potential impacts of the project. The BER, which includes input from certain state and Federal agencies, has been adopted by REA as its Environmental Assessment (EA). REA has concluded that the BER represents an accurate assessment of the environmental impacts of the proposed project. The project will allow OPC to continue to meet its responsibilities to serve its load in a reliable and economical manner.

The length of the proposed transmission line is approximately 4.7 miles. It will tap existing 230 kV Union City-South Griffin transmission lines, and terminate at a proposed Highway 54 Substation in Fayette County. The double circuit 230 kV line will require new right-of-way (ROW) 100 feet in width. The Highway 54 Substation will require 2.5 acres of area that will be cleared and fenced to accommodate the facility.

REA has concluded that the proposed project will have no significant impact on wetlands, prime farmland, floodplains, threatened or endangered species or critical habitat, property listed or eligible for listing in the National Register of Historic Places, air quality, water quality and the health of humans or animals. Floodplains, wetlands, and prime farmland are located in the preferred line ROW. Some transmission line support structures may be located within these areas; however, REA believes that transmission line structure placement will have no significant impact to these areas. No practical alternative routes that could avoid these areas were identified. The substation will not be located in the 100-year floodplain or wetlands. The substation will displace approximately ½ acre of prime farmland; however, the site alternative with the least amount of impact to agricultural use was selected. Certain other impacts resulting from the proposed project are unavoidable such as the cutting of trees and vegetation for the right-of-way clearing and the aesthetic impact on the visual quality of the area.

Alternatives examined for the proposed project included no action,

electrical alternatives, alternative line routes and alternative substation sites. REA determined that there is a demonstrated need for the project and constructing it within the preferred ROW will have no significant impact to the environment. Therefore, REA has concluded that its approval to allow OPC to use general funds to construct the proposed project does not constitute a major Federal action significantly affecting the quality of the human environment. REA has reached a FONSI with respect to the proposed project.

Copies of the EA and FONSI can be obtained from the offices of REA in the South Agriculture Building, Room 0270, 14th and Independence Avenue, SW., Washington, DC 20250 or at the office of Oglethorpe Power Corporation, P.O. Box 1349, Tucker, Georgia 30085–1349.

In accordance with REA Environmental Policies and Procedures, 7 CFR 1794, OPC had a notice and advertisement published in the Fayette County News which has a general circulation in Fayette County. The notice appeared in the August 31, 1988 issue. The notice described the project, announced the availability of the BER and gave information where the BER could be obtained for review and where comments could be sent. The advertisement appeared in the same issue of the newspaper and briefly described the project and referred the reader to the legal notice. The public was given at least 30 days to respond to the notice. No responses to the notice were received by OPC or REA.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.8509—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR part 3015, Subpart V, this program is excluded from the scope of Executive Order 312372 which requires intergovernmental consultation with state and local officials.

Date: October 7, 1988.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 88–23964 Filed 10–17–88; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application #88–00010.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Michigan Export Development Authority (MEDA). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct 83

Export Trade

Products

All products and services.

Related Services

Shipping (overseas freight transportation, inland freight to the terminal or port, terminal or port storage, packing and crating, freight forwarding, chartering of vessels, consolidation of shipments, documentation, wharfage and handling charges, and other services directly related to the movement of goods being exported or in the course of being exported), credit and banking terms, financing, insurance, legal, foreign exchange, product adaptation, taxation, and marketing services.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

MEDA may:

1. Enter into joint discussions and negotiations with foreign buyers concerning:

(a) Standardized production specifications, quantities, timing, shipping, packing, credit and banking terms necessary to meet the needs of the foreign buyer, MEDA, and members;

(b) Standardized quality standards that meet foreign buyer specifications; and

(c) Standardized bidding procedures acceptable to foreign buyers.

2. Act jointly to negotiate charges and other terms and to negotiate contracts with providers of transportation services, including advantageous freight contracts with individual carriers and carrier conferences, including chartering of vessels for MEDA and members, and negotiations for inland transportation for Products in the course of being exported.

3. Enter into agreements among MEDA and members on the terms of each party's participation in the negotiation and fulfillment of transportation contracts, including participation in inland transportation negotiations for Products in the course of being exported.

4. Refuse to deal with an individual or company with respect to the export of any Products to a foreign buyer.

5. Refuse to deal with respect to the export of any Products to a foreign buyer with any member not complying with the standards, agreements, or other terms of export trade set by MEDA and/or its members.

6. Exchange information and make agreements concerning the extent of member participation in transactions which involve MEDA and/or members. The information to be exchanged includes:

(a) Information that is already available to the trade or to the general public;

(b) Information (such as selling strategies, prices, projected demand, customary terms of sale) solely about the Export Markets;

(c) Information on costs specific to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents, commissions, export sales documentation and service, and export sales financing);

(d) Information about U.S. and foreign legislation and regulation affecting sales to Export Markets;

(e) Information about the price, quality, quantity, source, and delivery dates of Products available from members for export;

(f) Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by MEDA and its members; and

(g) Any other commercial, financial, or industrial information (such as production capacity or quality control procedures) strictly regarding exports that is not already generally available to the trade or public from members or suppliers to a transaction.

7. Enter into exclusive or nonexclusive agreements with Export Intermediaries to act for or provide Related Services to MEDA and members, whereby each Export Intermediary may agree not to represent competitors of MEDA or members in the sale of Products in any Export Market and not to buy any Products from any competitors of MEDA or members for resale in any Export Market.

8. Enter into exclusive or nonexclusive agreements with foreign customers, whereby each customer may agree not to purchase Products from competitors of MEDA or its members.

9. Enter into exclusive or nonexclusive agreements with Export Intermediaries for the provision of Related Services.

10. Limit membership in MEDA to businesses operating in Michigan and to Michigan residents.

11. Enter into joint ventures for a specific transaction or sale as needed between members and nonmembers (including nonmembers located outside Michigan) that specify or meet standards on quality, quantity, and price specifications for transactions. MEDA will engage in price, quantity, quality, and other negotiations directly with the foreign buyer when appropriate. Otherwise, such specifications will be set by agreement between MEDA and members and the customer.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: October 13, 1988.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88-24017 Filed 10-17-88; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications: Chicago, IL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to available funds. The cost of performance for the first (12) months is estimated at $276,500 in Federal funds and a minimum of $48,794 in non-federal contributions for the budget period May 1, 1989 thru April 30, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Chicago, Illinois geographic service area. The award number of this MBDC will be 05-10-89006-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

Closing Date: The closing date for applications is *November 30, 1988.* Applications must be postmarked on or before *November 30, 1988.*

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

FOR FURTHER INFORMATION CONTACT: *David Vega,* Regional Director, *Chicago* Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

David Vega,

Regional Director, Chicago Regional Office.

Date: October 12, 1988.

[FR Doc. 88-23969 Filed 10-17-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; American Lobster Amendment 3; Public Hearing

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

ACTION: Notice of a public hearing and request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold a public hearing to solicit public input into proposed measures to be included in Amendment 3 to the American Lobster Fishery Management Plan. Individuals and organizations may comment in writing to the Council before the hearing date.

DATE: The hearing will be held October 24, 1988, from 11:00 a.m. to 12:00 p.m.

ADDRESSES: The hearing will take place at the Sheraton Falmouth, 291 Jones Road, Falmouth, Massachusetts.

Written comments should be sent to Chairman, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, 617–231–0422.

SUPPLEMENTARY INFORMATION: The Council seeks input from the public on the following proposals scheduled for possible inclusion in Amendment 3 to the American Lobster Fishery Management Plan: (1) Delay the effective date of the increase in escape vent size from January 1, 1990, to January 1, 1992; and (2) effective January 1, 1992, lobster traps must contain an escape panel or equivalent mechanism to keep a trap from ghost fishing after it has been abandoned or lost for 12 months or more. The Director, Northeast Region, will publish a list of acceptable methods for complying with this requirement at least one year prior to the implementation date. If the list is not published by January 1, 1991, the measure will become effective one year after the actual publication date.

Date: October 12, 1988.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–24059 Filed 10–17–88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Request for Modification: Brent Stewart (P278C)

Notice is hereby given that Mr. Brent Stewart, Hubbs Marine Research Institute, 1700 South Shores Road, San Diego, California 92109 has requested a modification to Permit No. 579 issued on January 10, 1987 (52 FR 3037) under the authority of the Marine Mammal Protection Act (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (16 U.S.C. 1531–1543), and the regulations governing endangered fish and wildlife, and as modified on January 21, 1988 (53 FR 1657).

The current Permit allows the chemical immobilization of up to 40 male and 40 female elephant seals (*Mirounga angustirostris*) for the attachment of Time Depth Recorders. The Holder requests to modify the Permit to allow blood samples to be taken from these immobilized seals on San Nicolas and San Miguel Islands. He also would like to give intramuscular injections of Decapeptyl-CR (16 mg per injection) to each of the males during breeding season to determine if sex steroid serum levels can be lowered to reduce aggressive behavior.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC, on or by November 17, 1988. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Date: October 7, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–23971 Filed 10–17–88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of Defense.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement, Part 42, Contract Administration, Part 52.242 and Related Forms; DD Forms 375, 375C, 1639 and 1659; OMB Control Number 0704–0250.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: .263 hours.

Frequency of Response: On needed.

Number of Respondents: 47,054.

Annual Burden Hours: 84,102.

Annual Responses: 317,504.

Needs and Uses: A. Basic Part 42 coverage reporting requirements are necessary to support contract administration functions including unique requirements of the Defense Logistics Agency.

B. DD Form 1659 is presently used by contractors to obtain Government shipping documentation and/or instructions.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 13, 1988.

[FR Doc. 88–23973 Filed 10–17–88; 8:45 am]

BILLING CODE 3810-01-M

Base Realignment and Closure Commission; Meeting

ACTION: Notice of closed meetings.

SUMMARY: The Defense Secretary's Commission on Base Realignment and Closure will hold closed meetings on November 14–15 and 28–29, 1988. They will meet for the purpose of individual base deliberations. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (9)(B) thereof, and Title 5 U.S.C., Appendix 2, subsection 10(d).

FOR FURTHER INFORMATION, CONTACT: Russel Milnes, (202) 653–0180, address: Defense Secretary's Commission on Base Realignment and Closure, 1825 K Street, NW., Suite 310, Washington, DC 20006.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

October 13, 1988.

[FR Doc. 88–23972 Filed 10–17–88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Intent To Prepare an Environmental Impact Statement for Proposed Redevelopment of Navy Land Known as the Broadway Complex, San Diego, CA.

Pursuant to the procedural provisions of the Council on Environmental Quality regulations (40 CFR Parts 1500–1508) implementing the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an Environmental Impact Statement (EIS) is being prepared, in coordination with the City of San Diego, for proposed redevelopment of Navy land known as the Broadway Complex, San Diego, California.

The project site is located on approximately 16 acres in downtown San Diego adjacent to the San Diego Bay waterfront. The site consists of eight city blocks that are bounded by Harbor Drive on the west, Market Street on the south, Pacific Highway on the east, and Broadway on the north. The site is currently improved with a series of sixteen miscellaneous office and warehouse buildings containing approximately one million square feet of gross floor area. The buildings were constructed between 1922 and 1945.

The Navy is proposing to consolidate in modern facilities the general regional administrative activities of the naval shore establishment in the San Diego area. These facilities are to be central to the San Diego naval commands, the commuting work force of the San Diego area, and regional transportation systems. The Navy's objective is to redevelop this site through a public/private partnership designed to meet the Navy's regional administrative office space needs in a manner that will complement San Diego's bayfront redevelopment. Approximately one million square feet of Navy office space is contemplated to be developed on the site by a private developer(s) for use by the Navy. Additional mixed-use (e.g., office, hotel, specialty retail) private development on the site will be allowed which is intended to offset the cost of the Navy-occupied space, thereby reducing cost to the taxpayer.

A conceptual master plan and urban design guidelines will be prepared in coordination with the San Diego community through the City of San Diego to guide the development of the site. It is proposed that the Navy and the City will enter into a development agreement as the mechanism for approval and control of the site's development.

It is our understanding that the City of San Diego will prepare environmental documentation (EIR) for its proposed actions in compliance with the California Environmental Quality Act (CEQA). Because of issues common to both and to facilitate administration, joint hearings and meetings will be conducted for the NEPA and CEQA processes.

The EIS will be a full scope document that will cover all matters of potential environmental concern. The environmental analysis will address, but not be limited to, traffic and circulation, land use and planning, waterfront access, aesthetics and view corridors, public services and utilities, socioeconomics, geology and seismicity, extractable resources, hydrology and drainage, biology, endangered species and critical habitat, air quality, noise, cultural resources, coastal zone management, public health and safety, and energy conservation.

Alternatives that are being considered include variations of private and Navy development on the Broadway Complex site, Navy-only development of the site, development of an alternative site in downtown San Diego, and no action.

The Department of the Navy is requesting any comments you may have regarding the scope of the environmental analysis in the EIS. Please submit comments and/or questions to the address given below no later than December 16, 1988:

Officer in Charge, Western Division, Naval Facilities Engineering Command Detachment, Broadway Complex, 1220 Pacific Highway, San Diego, California 92132–5190, ATTN: CAPT Wayne Goodermote, CEC, USN.

Telephone inquiries may be directed to Mr. Anthony Principi at (619) 532–3291.

Joint public scoping meetings will be held to receive written and oral testimony from governmental agencies and the public about issues and concerns that should be addressed in the Navy EIS and the City EIR. A morning session has been scheduled for agency representatives and an evening session for members of the public. Both meetings will be open to the general public at the times and locations given below. The evening session will adjourn at 11:30 p.m. or earlier, if all comments have been received. The scoping meetings will be conducted by Captain Wayne Goodermote, the Officer-in-Charge of the Broadway Complex Project Office. The meeting will be informal. Individual speakers will be requested to limit their statements to five minutes. Written statements will be accepted at the meeting or they may be mailed to the address given above. All comments must be received on or before December 16, 1988.

Morning session	Evening session
November 14, 1988—9:00 a.m., City Administration Building, 12th Floor, 202 C Street, San Diego, CA 92101.	November 14, 1988—7:00 p.m., City Administration Building, 12th Floor, 202 C Street, San Diego, CA 92101.

Date: October 13, 1988.

Jane M. Virga,

LT., JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 88–23963 Filed 10–17–88; 8:45 am]

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 26, 1988 beginning at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Proposed Amendment to the Comprehensive Plan and Water Code of the Delaware River Basin. Notice was given in the September 15, 1988 **Federal Register**, Vol. 53, No. 179, pp. 35889–35890, that the Commission would hold a public hearing on October 26, 1988 to receive comments on a proposed amendment to its Comprehensive Plan and Water Code to include a drought management plan for the Christina River

Basin, Chester County, Pennsylvania and New Castle County, Delaware. In order to address the unique hydrologic circumstances of the Christina River Basin, a drought management plan was developed which establishes drought criteria based on both surface and ground water conditions within the Christina River Basin and recommends actions to be undertaken on a coordinated basis as conditions dictate, notwithstanding the absence of a Commission drought declaration. The plan is incorporated in the drought management plan of the Commonwealth of Pennsylvania and the State of Delaware and is now proposed for inclusion in the Commission's Comprehensive Plan. The proposed amendment defines the area to be governed by the plan; the plan administration; drought indicators, criteria, and actions; enforcement and plan amendment procedures.

Current Expense and Capital Budgets. A proposed current expense budget for the fiscal year beginning July 1, 1989, in the aggregate amount of $2,535,800 and a capital budget for the same period in the amount of $1,202,000 in revenue and $1,121,000 in expenditures. Copies of the current expense and capital budget are available from the Commission on request.

A Proposal To Adopt the 1988 Water Resources Program. A proposal that the 1983 Water Resources Program approved on November 30, 1983, as extended and adopted respectively by DRBC Resolution Nos. 84–27, 85–42, 86–27, and 87–29, as the 1984, 1985, 1986, and 1987 Water Resources Program, be extended and adopted as the 1988 Water Resources Program, in accordance with the requirements of section 13.2 of the Delaware River Basin Compact.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Holdover Project: Northeastern Power Company D–86–53 (Revised).* An application to modify an approved water withdrawal and wastewater discharge for a proposed steam/electric cogeneration project located in Kline Township, Schuylkill County, Pennsylvania. The refuse coal-to-energy plant is designed to cogenerate about 45 MW of electricity. The applicant previously planned to pump 0.84 million gallons day (mgd) of mine water from subsurface mining shafts and consumptively use approximately 0.64 mgd. Now, the applicant proposes to withdraw only about 0.112 mgd from the Silverbrook Mine outfall, and to discharge only approximately 15,000 gallons per day (gpd) to the Little Schuylkill River. The water conservation resulted from a change to "dry" cooling. This hearing continues that of September 28, 1988.

2. *Camden County Municipal Utilities Authority D–71–9 CP (Revision 4).* A request to revise the previously approved service area of the Camden County Delaware No. 1 Regional Sewage Treatment Plant. The municipalities of Chesilhurst Borough and Waterford and Winslow Townships would be added to the service area of the Delaware No. 1 Sewage Treatment Plant which will result in the importation of sewage from the Atlantic Basin for treatment and discharge into the Delaware River. The project is located in the City of Camden, Camden County, New Jersey. The facility discharges to the Delaware River Estuary—Zone 3—at River Mile 97.93.

3. *Pennsylvania Department of Environmental Resource (PADER) D–78–50 CP (Revised).* An application by PADER to include in DRBC's Comprehensive Plan the 5.2 mile segment of Schuylkill River between Norristown Dam and Spring Mill Creek is a Modified Recreational segment under the Pennsylvania Scenic Rivers System. The segment had previously been labeled as Conditional—Modified Recreational by PADER and included in the Comprehensvie Plan with that status.

4. *Borough of East Stroudsburg D–87–15 CP (Revised).* An application to revise a sewage treatment plant expansion proposal. The applicant had originally planned to expand an existing 1.3 mgd plant to treat a design average flow of 2.25 mgd. Now, the applicant proposes to treat only 2.1 mgd via an innovative treatment process. A sequencing batch reactor system will be constructed, rather than the additional trickling filter previously proposed. The project is designed to serve an equivalent population of 28,000 persons in East Stroudsburg Borough, Monroe County, Pennsylvania through the year 2005. Treatment plant effluent will continue to be discharged to Brodhead Creek through the existing outfall.

5. *Willingboro Municipal Utilities Authority D–87–42 CP.* An application to replace the withdrawal of water from Well No. 4 in the applicant's water supply system which has become an unreliable source of supply. The applicant requests that the withdrawal from replacement Well No. 11 be limited to 60.48 million gallons (mg)/30 days. The project is located in Willingboro Township, Burlington County, New Jersey.

6. *Valley Township Authority D–88–31 CP.* An application for approval of a ground water withdrawal project to supply up to 4.5 mg/30 days of water to the applicant's distribution system from new Well Nos. V1, V2, and V4. The project is located in Valley Township, Chester County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

October 11, 1988.

[FR Doc. 88–24002 Filed 10–17–88; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 17, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or

waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting burden; and/or (6) recordkeeping burden; and (7) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 13, 1988.

Carlos U. Rice,

Director for Office of Information, Resources Management.

Office of Bilingual Education and Minority Language Affairs

Type of Review: Extension.
Title: Application for Emergency Immigrant Education Program.
Frequency: Annually.
Affected Public: State or Local Governments.
Reporting Burden:
Responses: 57.
Burden Hours: 8,892.
Recordkeeping:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: This form will be used by State agencies to apply for funding under the Emergency Immigrant Education Program. The Department uses the information to make grant awards.

Office of Postsecondary Education

Type of Review: Extension.
Title: Loan Transfer Statement.
Frequency: On occasion.
Affected Public: State or Local Governments; Businesses or other for profit; and Non-profit institutions.
Reporting Burden:
Responses: 1,400.
Burden Hours: 1,400.
Recordkeeping:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: Lenders use this form to show the transfer or sale of a Federal Insured Student Loan (FISL). The Department uses this information to determine which lender may receive benefits payable on a FISL note and to track the transfer of loans.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Annual Report on Post-Employment Services and Annual Reviews.
Affected Public: State or Local Governments.
Frequency: Annually.
Reporting Burden:
Responses: 86.
Burden Hours: 74.
Recordkeeping:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: State Vocational Rehabilitative (VR) agencies submit this report to the Department of the Post-employment status of handicapped individuals. The Department uses the information collected to monitor post-closure activities of the VR clientele.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Annual Vocational Rehabilitation Program/Cost Report.
Affected Public: State and Local Governments.
Frequency: Annually.
Reporting Burden:
Responses: 84.
Burden Hours: 395.
Recordkeeping:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: State vocational Rehabilitative agencies submit this report to the Department. The Department uses the information to analyze expenditures, evaluate program accomplishments, and to examine data for indicators of problem areas.

Office of Vocational and Adult Education

Type of Review: New.
Title: Financial Status and Performance Report for the Adult Education for the Homeless Program.
Frequency: Annually.
Affected Public: State or local government.
Reporting Burden:
Responses: 52.
Burden Hours: 468.
Recordkeeping:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: State educational agencies that have participated in the Adult Education for the Homeless Program are to submit these reports to the Department. The Department uses the information to monitor expenditure of funds and to povide reports to Congress.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.
Title: Certification: Indian Student Enrollment.
Frequency: Annually.
Affected Public: Individuals or Households; State or Local Governments.
Reporting Burden:
Responses: 26,115.
Burden Hours: 33,010.
Recordkeeping:
Recordkeepers: 1,115.
Burden Hours: 558.

Abstract: A completed student certification form for each Indian Student must be on file in the office of the applicant in order to qualify for a formula grant under the Indian Education Act, as amended. The Department uses the information to make grant awards.

[FR Doc. 88-24029 Filed 10-17-88; 8:45 am]
BILLING CODE 4000-01-M

[CFDA No.: 84.055]

Cooperative Education Program; Notice Inviting Applications for New Awards for Fiscal Year 1989

Purposes of the Program: Provides Federal financial assistance for three type of cooperative education projects (1) Administration Projects: Grants may be awarded to institutions of higher education and combinations of institutions of higher education to help them plan, establish, operate, or expand cooperative education projects, including institution-wide projects; (2) Demonstration Projects: Grants may be awarded to institutions of higher education, combinations of institutions of higher education, and public and private nonprofit organizations and agencies to demonstrate or determine the feasibility or value of innovative methods of cooperative education; and (3) Training and Resources Center Projects: Grants may be awarded to institutions of higher education, combinations of institutions of higher education, and public and private nonprofit organizations and agencies that provide training to individuals who participate in, or are planning to participate in the planning, establishment and administration of cooperative education.

Deadline For Transmittal of Applications: January 10, 1989.

Applications Available: November 16, 1988.

Available Funds: The Congress has appropriated $13,622,000 for this program for fiscal year 1989. Of that amount, approximately $8,527,200 will be available for new grants as follows:

Administration Grants—$7,412,400
Demonstration Grants—$287,700
Training and Resources Center Grants—$827,100

Estimated Range of Awards

Administration Grants—$26,000–$300,000
Demonstration Grants—$67,000–$106,000
Training and Resources Center Grants—$57,000–$162,000

Estimated Average Size of Awards

Administration Grants—$75,630
Demonstration Grants—$95,900
Training and Resources Center Grants—$118,100

Estimated Number of Awards

Administration Grants—98
Demonstration Grants—3
Training and Resources Center Grants—7

Note: The Department is not bound by any estimates in this notice.

Project Periods

Administration Projects—12–60 months
Demonstration Projects—12–36 months
Training and Resources Center Projects—12–36 months

Priority: The Department's Fiscal Year 1989 Appropriation Act (Pub. L. 100–436) requires the Secretary to establish a priority for administration grants for applications from private urban institutions of higher education, or combinations of private urban institutions of higher education, that have minority student enrollments exceeding 66 percent of total student enrollment and that plan to develop from a traditional academic curriculum to an institution-wide cooperative education program applicable to all undergraduate four year major fields of study. In accordance with Pub. L. 100–436 and 34 CFR 75.105(c)(2), applications meeting this priority will be awarded ten points in addition to the 100 possible points under the selection criteria in 34 CFR 632.20 and 20 possible points under the special funding consideration in 34 CFR 632.21.

Applicable Regulations: (a) Regulations governing the Cooperative Education Program as codified in 34 CFR Parts 631 (General), 632 (Administration Projects), 633 (Demonstration Projects), and 635 (Training and Resource Center Projects) (Final regulations for this program were published in the Federal Register on August 5, 1987 (52 FR 29140); and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications Contact: Vicki Payne, U.S. Department of Education, Division of Higher Education Incentive Programs, 400 Maryland Avenue SW., Washington, DC 20202–5251. Telephone (202) 732–4414.

For Program Information Contact: Darlene Collins or Elizabeth Slany (at the address given above). Telephone: (202) 732–4404 and 732–4861, respectively.

Program Authority: 20 U.S.C. 1133–1133b.

Dated: October 6, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88–24033 Filed 10–17–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. PP–88EA]

Application for Electricity Export Authorization by Rio Grande Electric Cooperative, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application by Rio Grande Electric Cooperative, Inc., for authorization to export electric energy to Mexico.

SUMMARY: On Sepember 23, 1988, the Rio Grande Electric Cooperative, Inc. (RGEC), filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for authorization to export electric energy to Mexico pursuant to section 202(e) of the Federal Power Act. RGEC requests authority to export up to 300 kilowatts (KW) of electric power to the townsite of Boquillas de Carmen, Coahuila, Mexico, by means of a three phase, 4 wire, 60 cycle distribution line rated 14,400/24,900 volts.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Economic Regulatory Administration (RG–22), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5883.

Lise Courtney M. Howe, Office of General Counsel (GC–41), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2900.

SUPPLEMENTARY INFORMATION: On September 23, 1988, the Rio Grande Electric Cooperative, Inc., filed an application with the ERA for authorization to export electric energy to Mexico pursuant to section 202(e) of the Federal Power Act. Specifically, RGEC has applied for authorization to transmit electricity from the United States to Mexico over a three phase, 4 wire, 60 cycle distribution line rated at 14,400/24,900 volts.[1] This line will interconnect with facilities of the Comision Federal de Electricidad (CFE), an electric utility in Mexico. The point of delivery will be approximately one-half mile north of Rio Grande Village in Big Bend Park, Texas. This export will be used to provide electricity to the town site of Boquillas de Carmen, Coahuila, Mexico, which is currently without electric service.

According to RGEC, the maximum rate of transmission to Mexico will be 300 kilowatts. The terms and conditions of the sale of power are set forth in the Contract for Electric Service and Agreement between RGEC and CFE which was filed with the subject application.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with § 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed with the ERA no later than November 17, 1988. Protests will be considered by the ERA in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application will be made available, upon request, for public insepction and copying at the Department of Energy's Freedom of Information Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, from 9:00 a.m. to 4:00 p.m., Monday through Friday.

[1] The facilities required to effect this export are the subject of an application filed on June 28, 1988, by CFE for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the U.S. and Mexico. This application was noticed in the Federal Register on September 15, 1988 (53 FR 35891).

Issued in Washington, DC, on October 6, 1988.

Anthony J. Como,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-24030 Filed 10-17-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF84-152-006 et al.]

Ultrapower Inc., Rio Bravo Poso, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Ultrapower Incorporated, Rio Bravo Poso

[Docket No. QF84-152-006]

October 11, 1988.

On September 28, 1988, Ultrapower Incorporated, Rio Bravo Poso (Applicant), of 16845 Von Rarmam Avenue, Irvine, California 92714 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Kern County, California. The facility will consist of an atmospheric fluidized bed boiler, a steam trubine generator and related auxiliary equipment. The primary energy source will be petroleum coke.

The original application was granted certification on March 27, 1984 (QF84-152-000 26 FERC ¶62,309), and subsequently recertified on March 19, 1985 (QF84-152-001, 30 FERC ¶62,311), as a small power production facility.

The recertification is requested due to change in ownership. Applicant states that utility ownership of the facility will be approximately 50%.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Ultrapower, Inc., Rio Bravo Jasmin

[Docket No. QF86-194-004]

On September 28, 1988, Ultrapower, Incorporated, Rio Bravo Jasmin (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Kern County, California. The facility will consist of an atmospheric fluidized bed boiler, a steam turbine generator and related auxiliary equipment. The primary source of energy will be petroleum coke.

The original application was granted certification on January 16, 1986 (QF86-149-000, 34 FERC ¶62,144).

The recertification is requested due to change in ownership. Applicant states that utility ownership of the facility will be approximately 50%.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

3. Ultrapower, Inc., Rio Bravo Jasmin

[Docket No. QF86-149-005]

On September 28, 1988, Ultrapower Incorporated, Rio Bravo Jasmin (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714 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.

The topping-cycle cogeneration facility is located in Kern County, California. The facility will consist of an atmospheric fluidized bed boiler, a steam turbine generator and related auxiliary equipment. The primary source of energy will be coal. Steam recovered from the facility will be used in enhanced oil recovery.

By order issued April 16, 1988, the Commission granted certification of the facility as a cogeneration facility (QF86-149-001, 35 FERC ¶62092).

The recertification is requested due to change in the ownership of the facility, date of installation and increase in capacity. Accordingly to the Applicant the net electric power production capacity will increase from 28.85 M.W. to 30.70 M.W. Applicant states that utility ownership of the facility will be approximately 50%. Installation date of the facility was changed from February 1, 1986 to January 20, 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

4. Ultrapower Incorporated, Rio Bravo Poso

[Docket No. QF84-152-006]

October 12, 1988.

On September 28, 1988, Ultrapower Incorporated, Rio Bravo Poso (Applicant), of 16845 Von Rarmam Avenue, Irvine, CA 92714 submitted for filing an application for recertification of a faciltiy 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 Kern County California. The facility will consist of an atmospheric fluidized bed bolier, a steam turbine generator and related auxiliary equipment. The primary energy source will be coal. Steam recovered from the facility will be used in enhanced oil recovery.

By order issued January 29, 1986, the Commission granted certification of the facility as a cogeneration facility (QF84-152-002, 34 FERC ¶62,237).

The recertification is requested due to change in ownership of the facility, date of installation and increase in capacity. According to the Applicant the net electric power production capacity will increase from 27.78 MW to 31.7 MW. Applicant states that utility ownership of the facility will be approximately 50%. Installation date was changed from July 1, 1986 to March 29, 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-24010 Filed 10-17-88; 8:45 am]

BILING CODE 6717-01-M

[Docket Nos. CP88-881-000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP88-881-000]

October 11, 1988.

Take notice that on September 29, 1988, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas, 77251-1478, filed in Docket No. CP88-881-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Pennzoil Gas Marketing Company (Pennzoil) a producer and marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 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.

United proposes to transport on an interruptible basis up to 51,500 MMBtu of natural gas equivalent per day on behalf of Pennzoil pursuant to a transportation agreement dated July 18, 1988, between United and Pennzoil. United would receive gas at three existing points of receipt on its system in Nueces and Bee Counties, Texas and redeliver equivalent volumes at two existing points of delivery in Ouchita Parish, Louisiana.

United further states that the estimated average daily and annual quantities would be 51,500 MMBtu and 18,797,500 MMBtu, respectively. Service under § 284.223(a) commenced on September 1, 1988, as reported to the Commission September 15, 1988, in Docket No. ST88-5699.

Comment date: November 25, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP88-883-000]

October 11, 1988.

Take notice that on September 30, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-883-000, a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on an interruptible basis on behalf of Louisiana State Gas Corporation, an intrastate gas pipeline company, under its' blanket certificate issued in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that it proposes to transport on an interruptible basis pursuant to a gas transportation agreement, dated August 25, 1988, a maximum daily quantity of 37,080 MMBtu of natural gas. United further states that service commenced September 1, 1988, as reported in Docket No. ST88-5803, pursuant to § 284.223(a) of the Commission's Regulations. United also states that the average day and annual quantities would be 37,080 MMBtu and 4,449,600 MMBtu, respectively.

Comment date: November 25, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP89-3-000]

October 12, 1988.

Take notice that on October 3, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-3-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon jurisdictional sales service provided to Michigan Gas Utilities Company (MGU), and the related transportation and storage service provided to MGU, all as more fully set forth in application which is on file with the Commission and open to public inspection.

Panhandle states that MGU is served pursuant to Panhandle's Rate Schedule G-1 and a Gas Sales Contract (Contract) dated September 16, 1981. Panhandle also states that the Contract expires on October 31, 1988. It is stated that Panhandle currently provides an average quantity of approximately 32,900 Mcf of natural gas per day of firm sales service to MGU. It is further stated that on August 12, 1988, in Docket No. CP88-674-000, Panhandle filed to reduce MGU's monthly contract demand by 3.004 Mcf/d pursuant to a conversion under § 284.10 of the Commission's Regulations. Panhandle states it proposed such conversion to be effective April 1, 1988, pursuant to a gas sales contract dated April 1, 1988. According to Panhandle, that application is still pending before the Commission.

Panhandle alleges that by letter dated March 19, 1987, MGU informed Panhandle that in accordance with Article 5 of the Contract it no longer requires any sales service from Panhandle effective October 31, 1988 (Termination Notice). It is stated that associated with, and dependent upon, the sales service provided under the Contract, is a transportation and storage service provided by Panhandle to MGU pursuant to Rate Schedule TS-6 of Panhandle's FERC Gas Tariff Original Volume No. 2, and a Gas Storage and Transportation Agreement between Panhandle and MGU dated May 29, 1984 (Storage Agreement). Panhandle states that by Commission order issued December 9, 1977, in Docket No. CP77-253, as amended, it was authorized to utilize a portion of the storage capacity it had contracted with Michigan Consolidated Gas Company (MichCon) for the storage needs of certain of Panhandle's customers, including MGU.

It is stated that pursuant to Article IV *TERM*, the storage Agreement shall continue in effect "* * * until March 30, 1991, or the date of termination of the Contract, whichever occurs first." Panhandle states that the Storage Agreement defines 'Contract' as the Gas Sales Contract dated September 16, 1981, between Panhandle and MGU. Therefore, by its own terms, the Storage Agreement, according to Panhandle may not continue in effect after the expiration of the Contract on October 31, 1988. Accordingly, Panhandle seeks to also abandon the Storage Agreement, effective October 31, 1988. Panhandle states that it does not seek to abandon any portion of the storage capacity it has contracted with MichCon; Panhandle will utilize such storage in the future to satisfy its own system requirements.

It is further asserted that there would be no abandonment of facilities, only the jurisdictional sales service together with the associated transportation and storage service provided to MGU. The facilities presently in place will be used to provide transportation service as may be required by MGU and other shippers.

Panhandle states that it has filed revised tariff sheets in Docket Nos. RP88-240 and RP88-241 to recover portions of prudently incurred take-or-pay costs from each of its customers, including MGU. It is averred that the portion of such costs attributable to MGU are defined therein, and may be amended, supplemented, revised or modified pursuant to Commission authorizations or otherwise as permitted or required by law. According to Panhandle, nothing in this filing is to be deemed to be prejudicial to Panhandle's rights to recover those costs from MGU or to recover any other costs attributable to MGU.

Finally, it is submitted that the abandonment is in the public interest because MGU requested such

abandonment and has advised Panhandle that Panhandle's services are no longer required by it; the proposed abandonment will make more capacity available in Panhandle's system for use by others.

Comment date: November 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP88–866–000]

October 12, 1988.

Take notice that on September 28, 1988, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S. E., Charleston, West Virginia 25314, filed in Docket No. CP88–866–000, an application pursuant to section 7(c) of the Natural Gas Act for a certificiate of public convenience and necessity authorizing the continued operation of certain existing natural gas storage fields and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that the purpose of its application is to assure its ability to acquire by eminent domain exclusive gas storage easements under section 7(h) of the Natural Gas Act, as amended, and thereby protect the integrity of its storage fields. This application results from a Court's holding that Columbia did not have the right of eminent domain for a certain tract of land in one of its storage fields because it was located outside the geographic area designated on the exhibit maps contained in the application in which Columbia obtained certificate authorization for the operation of the storage field, it is explained.

Specifically, Columbia requests a certificate of public convenience and necessity for the continued operation, as presently constituted, of the following storage fields and related facilities:

(1) Majorsville-Heard Storage Complex in Marshall County, West Virginia, and Greene and Washington Counties, Pennsylvania; and

(2) Dundee Storage field in Yates, Steuben, and Schuyler Counties, New York.

Comment date: November 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP88–869–000]

October 12, 1988.

Take notice that on September 29, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88–869–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon 236 feet of 8⅝ inch lateral and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to abandon 236 feet of 8⅝ inch lateral and appurtenant facilities constructed at a cost of $1,305,617 to receive natural gas from Union Oil Company's, currently Union Exploration Partners, Ltd. (Partners), platform located in Brazos Block A–105, offshore Texas. Natural states that the ownership of the lateral would be transferred to Partners as part of an agreement to reform certain gas purchase contracts and resolve differences between Natural and Partners regarding take or pay and other quantity related claims. Further Natural states that Partners has agreed not to charge Natural for any gas purchased by Natural and moved through this lateral during the term of the gas purchase contract between Natural and Partners covering Brazos Block A–105, offshore Texas.

Comment date: November 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP88–891–000]

October 12, 1988.

Take notice that on September 30, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP88–891–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct one delivery point and appurtenant facilities to accommodate natural gas deliveries to Midwest Natural Gas, Inc. (Midwest) under its blanket certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northern states it requests authority to construct, operate, and maintain an additional delivery point as a second town border station to accommodate natural gas deliveries for the community of Westby, Wisconsin, to be served by Midwest. It is further stated that the estimated peak day and annual volumes to be delivered to Midwest at the subject delivery point in the fifth year of service would be 39 Mcf and 6,341 Mcf, respectively.

Northern indicates that the volumes to be delivered to Midwest at the proposed delivery point would be within its currently authorized firm entitlement, as originally authorized by order issued on November 9, 1987, in Docket No. RP85–206–011 through RP85–206–027, and as currently pending before the Commission in a section 7(b) and 7(c) proceeding in Docket No. CP88–774–000. Northern further indicates that delivery of such volumes would, therefore, have no impact on its peak day and annual volumes. Northern states that the required volumes would be served from the firm entitlement currently designated by Midwest for delivery to Westby, Wisconsin. The total estimated cost to construct the proposed delivery point would be $6,520, it is stated, and would be financed from funds on hand.

Comment date: November 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP88–892–000]

October 12, 1988.

Take notice that on September 30, 1988, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP88–892–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport gas on an interruptible basis for Rangeline Corporation (Rangeline) under its blanket certificate issued in Docket No. CP88–316–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it would perform the proposed transportation service for Rangeline, a marketer, pursuant to a service agreement dated July 22, 1988, under Southern's Rate Schedule IT. It is stated that the service would have a primary term of one month with successive terms of one month thereafter unless cancelled by either party. Southern proposes to transport 15,000 MMBtu of gas on a peak day; 6,428 MMBtu of gas on an average day; and 2,346,429 MMBtu of gas for Rangeline on an annual basis. Southern proposes to receive the gas at various receipt points in Louisiana and offshore Louisiana for delivery to an end user in Georgia. Southern asserts that no new facilities are required to implement the proposed service.

Southern states that it commenced transportation of natural gas for

Rangeline on July 29, 1988, as reported in Docket No. ST88–5514 pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations.

Comment date: November 28, 1988, in accordance with Standard Paragraph G at the end of his notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24009 Filed 10–17–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–152–002]

Alabama-Tennessee Natural Gas Co.; Filing

October 12, 1988.

Take notice that on October 5, 1988, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed Fifth Revised Sheet No. 47 to its FERC Gas Tariff, First Revised Volume No. 1, to be effective June 1, 1988.

Alabama-Tennessee states that the purpose of this filing is to clarify and correct an inadvertent omission of language relating to a change in the current adjustment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions of protests should be filed on or before October 21, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24006 Filed 10–17–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT88–35–001]

Arkla Energy Resources, a Division of Arkla, Inc.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

October 11, 1988.

Take notice that on October 7, 1988, Arkla Energy Resources, a division of Arkla, Inc., tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and section 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1–A:

First Substitute Third Revised Sheet No. 76

First Substitute Original Sheet No. 76A

First Substitute Third Revised Sheet No. 82

First Substitute Third Revised Sheet No. 83

Any person desiring to be heard or to protest the subject 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 18 CFR 385.214 and 385.211. All such motions or protests must be filed by October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24012 Filed 10–17–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–260–001]

CNG Transmission Corp.; Filing

October 12, 1988.

Take notice that on October 5, 1988, CNG Transmission Corporation (CNG) filed First Revised Tariff Sheet No. 123 to its FERC Gas Tariff, Original Volume No. 1, to be effective September 27, 1988.

CNG states that this tariff sheet was inadvertently omitted from its original filing.

Any person desiring to be heard or to protest the subject 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, 385.211 (1988)). All such motions or protests must be filed on or before October 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 88-24015 Filed 10-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-2-000]

Natural Gas Pipeline Co. of America; Petition for Waiver

October 12, 1988.

Take notice that on October 6, 1988, Natural Gas Pipeline Company of America (Natural) filed a petition for waiver of § 154.305(i) of the Commission's Regulations to allow Natural to credit supplier refunds which have accumulated as of August 31, 1988, to Account No. 191 instead of disbursing them in cash to its customers. Natural further requests that the Commission grant it such waiver of its Tariff and the Regulations as are necessary to effectuate the foregoing request.

Natural believes that current market conditions, as well as the substantial balance in its deferred account, justify implementation of a crediting mechanism for any balances of supplier refunds in the appropriate subaccount of Account No. 191. Natural believes that such a proposal is reasonable and no sound purpose would be served by requiring Natural to disburse supplier refunds in cash at this time. Natural states that the crediting mechanism sought herein would render Natural's gas more marketable and foster the Commission's objective of enhancing the competitiveness of gas supplies in general.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-24008 Filed 10-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-001]

Northern Natural Gas Co.; Filing

October 12, 1988.

Take notice that on October 6, 1988, Northern Natural Gas Company (Northern) filed Substitute Fifth Revised Sheet No. 1856 and Fifth Revised Sheet No. 1954 to its FERC Gas Tariff, Original Volume No. 2, to be effective October 27, 1988.

Northern states that these tariff sheets correct errors contained in its September 28 filing. Substitute Fifth Revised Sheet No. 1856 reflects the correct lower proposed rate for service. Fifth Revised Sheet No. 1954 corrects an error in the pagination of the sheet.

Northern states that a copy of this filing has been served upon all parties who were served in the instant filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-24007 Filed 10-17-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-831-000]

Northern Natural Gas Company a Division of Enron Corp.; Request Under Blanket Authorization

October 11, 1988.

Take notice that on September 23, 1988, Northern Natural Gas Company, A Division of Enron Corp., (Northern), 1400 Smith Street, Houston, TX 77002, filed in Docket No. CP88-831-000, as supplemented on October 5, 1988, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct one delivery point and appurtenant facilities and to realign certain volumes in order to accommodate natural gas deliveries to Ft. McCoy, Wisconsin, under its blanket certificate issued in Docket No. CP82-401-000 on September 1, 1982, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to construct a large-volume delivery point for Ft. McCoy, Wisconsin, and to transfer certain volumes from the community of Tomah, Wisconsin, to the proposed Ft. McCoy delivery point, all to be served by Wisconsin Gas Company (Wisconsin Gas). It is stated that the volumes delivered to Ft. McCoy would be served from the existing firm entitlement of Wisconsin Gas. Northern states that the total estimated cost of constructing the proposed facilities is $70,120.

It is stated that the realignment of volumes would be as follows:

Delivery point	Volumes in Mcf per day				
	Existing authority		Proposed authority		Proposed total change
	CD-1	SS-1	CD-1	SS-1	
Ft. McCoy, Wisconsin	0	0	169	73	242
Tomah, Wisconsin	1,910	820	1,741	747	(242)

Northern states that due to an urgent need to provide natural gas service prior to the winter heating season, Northern is concurrently proceeding to install and operate the Ft. McCoy delivery point under section 311 of the Natural Gas Policy Act. Northern states that such service is an interim measure, intended solely to ensure the prompt commencement of service to Ft. McCoy, and that jurisdictional natural gas sales service would commence immediately upon approval of the authority requested herein.

It is further stated that the instant proposal is in lieu of the request filed in Docket No. CP85–62–000 but never implemented, and that the request in Docket No. CP85–62–000 did not involve a realignment of volumes. Northern estimates that the peak day and annual volumes for the proposed deliveries in the fifth year of service would be 393 Mcf and 58,140 Mcf, respectively. Northern advises that the end-use of the gas would be residential.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24016 Filed 10–17–88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2803–003]

Pennsylvania Hydroelectric Development Corp.; Establishing Deadline for Submitting Supplemental Information

October 11, 1988.

By order dated August 16, 1988,[1] the Commission issued a license to Pennsylvania Hydroelectric Development Corporation (PHDC) for the proposed Flat Rock Dam Project No. 2803, to be located at the existing state-owned Flat Rock Dam on the Schuylkill River, on the border between the City of Philadelphia and Lower Marion Township, Pennsylvania. On September 15, 1988, PHDC filed a timely request for rehearing of the Commission's order.

In its request for rehearing PHDC petitioned the Commission to reopen the record to submit supplemental information regarding certain articles of the license. Since the supplemental information PHDC wishes to submit may help clarify important issues relevent to the proceeding, notice is hereby given that PHDC is given until October 18, 1988, to file its supplemental information.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24011 Filed 10–17–88; 8:45 am]

BILLING CODE 6717-01-M

[1] 44 FERC ¶ 61.252 (1988).

[Docket No. MT88–7–001]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

October 11, 1988.

Take notice that on October 7, 1988, Sabine Pipe Line Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 200
Substitute Original Sheet No. 200A
Second Revised Sheet No. 204
Substitute Second Revised Sheet No. 205
Substitute Original Sheet No. 205A
Substitute Original Sheet No. 205B
Substitute Original Sheet No. 205C
Substitute Original Sheet No. 205D
Second Revised Sheet No. 206
Second Revised Sheet No. 207
Second Revised Sheet No. 208
First Revised Sheet No. 229
Original Sheet No. 230
Original Sheet No. 231
Substitute Original Sheet No. 232
Original Sheet No. 233
Original Sheet No. 234

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24013 Filed 10–17–88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2113 Wisconsin]

Wisconsin Valley Improvement Co.; Intent to File an Application for a New License

October 13, 1988.

Take notice that on July 25, 1988, Wisconsin Valley Improvement Company, the existing licensee for the Wisconsin Valley Project No. 2113, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99–495. The original license for Project No. 2113 was issued effective August 1, 1943, and expires July 31, 1993.

The project has no installed hydroelectric generating equipment but consists solely of twenty-one storage reservoirs located on the Wisconsin River and its tributaries, and which are operated to regulate the flow on the main stem of the river. Because of its effect on the production of electricity by twenty-six hydroelectric plants on the river, the project is licensed as a major water power project. The project reservoirs are located in the Wisconsin counties of Marathon, Lincoln, Oneida, Vilas, and Forest, and in Gogebic County, Michigan.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 2301 North Third Street, Wausau, Wisconsin 54401.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88–24028 Filed 10–17–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-8-001]

Equitrans, Inc., Proposed Changes in Ferc Gas Tariff Pursuant to Order No. 497

October 13, 1988.

Take notice that on October 13, 1988, Equitrans, Inc., tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 3:

Substitute First Revised Sheet No. 21
Substitute Original Sheet No. 21A
Substitute Original Sheet No. 21B
Substitute Original Sheet No. 23A
Substitute First Revised Sheet No. 25
Substitute Original Sheet No. 25A
Substitute Original Sheet No. 25B
Substitute First Revised Sheet No. 27
Substitute Original Sheet No. 27A
Substitute Original Sheet Nos. 40 through 46

Any person desiring to be heard or to protest the subject 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 18 CFR 385.214 and 385.211. All such motions or protests must be filed by October 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-24038 Filed 10-17-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $1,766,489,03 obtained as a result of a settlement agreement that the DOE entered into with the Holly Corporation (Case No. KEF-0113), a producer of crude oil located in Goliad and Wharton counties, Texas. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comment must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearing and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case Number KEF-0113.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a July 31, 1987 settlement agreement between the DOE and Holly Corporation (Holly). This settlement agreement was modified by an Amendment in April 1988. The amendment settlement agreement resolves certain disputes between the firm and the DOE concerning Holly's possible violations of DOE regulations in its sales of crude oil. The settlement agreement covers the period June 1979 through December 1980.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account in the amount of $1,766,489.03, funded by Holly pursuant to the amended settlement agreement. The determination proposes that the money be placed into a pool of crude oil money for distribution pursuant to the DOE's Statement of Restitutionary Policy for crude oil claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, locaterd in Room 1E-234, 100 Independence Avenue, SW., Washington, DC 20585.

Dated: October 12, 1986.

George B. Breznay,

Director Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Name of Firm: Holly Corporation.

Date of Filing: July 21, 1988.

Case Number: KEF-0113.

On July 21, 1988, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures (Petition) with the Office of Hearings and Appeals (OHA). In the Petition, the ERA requests that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving the Holly Corporation (Holly). 10 CFR Part 205, Subpart V. This Proposed Decision sets forth the OHA's tentative plan for distributing these funds to qualified refund applicants.

Holly was a "producer" of crude oil as that term is defined in 10 CFR 212.31. During the period June 1979 through December 1980 (the period of the alleged regulatory violations), Holly produced and sold crude oil from three properties located in Goliad and Wharton counties, Texas. Holly was therefore subject to the provisions of the Mandatory Petroleum Price Regulations, 10 CFR Part 212. The ERA conducted an extensive audit of Holly's operations and found in a Proposed Remedial Order that the firm has violated applicable DOE pricing regulations in its sales of crude oil. The Proposed Remedial Order was issued as a final Remedial Order by the OHA on March 29, 1985. *Holly Energy, Inc. and Holly Corporation*, 15 Doe ¶ 83,036 (1985). The Federal Energy Regulatory Commission affirmed the Remedial Order on November 26, 1985. *Holly Corporation and Holly Energy, Inc.*, 37 FERC ¶ 61.187 (1986).[1]

In order to settle the claims and disputes between Holly and the DOE that were raised in the Remedial Order, the two parties entered into a Settlement Agreement on July 31, 1987. In April 1988, the Department of Justice agreed to this Settlement Agreement, modified by an Amendment. In accordance with the terms of the Amendment to the Settlement Agreement, Holly paid $1,766,489.03 to the DOE on April 29, 1988. Neither the Settlement Agreement nor the Amendment makes any

[1] Holly's action seeking judicial review of the Remedial Order was terminated when a Stipulation of Withdrawal was entered by the U.S. District Court for the District of Delaware on June 7, 1988.

provision for the distribution of the funds remitted by Holly. It its Petition, the ERA states that it has been unable to identify persons injured by the overcharges or the amount which any individual may be entitled to receive. In accordance with the provisions of 10 CFR Subpart V, the ERA therefore requests that OHA establish appropriate procedures for the distribution of the funds remitted by Holly.

I. Proposed Refund Procedures

On July 28, 1986, as a result of the court-approved Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, the DOE issued a Modified Statement of Restitutionary Policy (MSRP) providing that crude oil overcharge or settlement revenues will be divided among the States, the United States Treasury, and eligible purchasers of crude oil and refined products. 51 FR 27899 (August 4, 1986). Up to 20 percent of the crude oil violation or settlement amounts may be reserved to satisfy claims from injured parties that purchased refined petroleum products between August 19, 1973, and January 27, 1981 (the crude oil price control period). We proposed that such claims be processed through Subpart V special refund procedures. The MSRP also calls for the remaining funds, after deducting the reserve, to be disbursed for indirect restitution. The MSRP states that this disbursement should be made both to the federal government and to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Marianna Islands (the States). Accordingly, once all valid claims are paid, any remaining funds will be divided equally between the federal government and the States. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

The Holly funds are subject to the MSRP. Therefore we propose to institute a claims process for the $1,766,489.03 in funds involved in this proceeding. In the present case, we have decided to reserve the full 20 percent, or $353,297.81, of the alleged violation amount, plus a proportionate share of the accrued interest, for direct restitution to claimants that purchased refined petroleum products during the crude oil price control period. Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the Holly refund pool of $1,766,489.03 by the total consumption of petroleum products in the United States during the crude oil price control period (2,020,997,335,000 gallons). *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,867 (1986) *(Mountain Fuel)*. This approach reflects the fact that crude oil overcharges were spread to every region by the Entitlements Program.[2] The volumetric amount for the crude oil pool established in this proceeding is therefore $0.00000087407 per gallon of refined products purchased ($1,766,489.03/2,020,997,335,000=$0.00000087407).

We propose that the remaining 80 percent of the funds, or $1,413,191.22, be disbursed equally to the federal government and to the States for indirect restitution. We propose to direct the DOE's Office of the Controller to separate and divide this amount, and to distribute $706,595.61 plus appropriate interest to the States' crude oil tracking account [3] and $706,595.61 plus appropriate interest to the federal government crude oil tracking account.

II. Proposed Presumptions Concerning Injury

The process which the OHA will use to evaluate claims based on crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to 10 CFR Part 205, Supart V. *Mountain Fuel* 14 DOE at 88,869. As in non-crude oil cases, applicants generally are required to document their purchase volumes and to prove that they were injured by the alleged violations (*i.e.* that they did not pass through the alleged overcharges to their customers). We propose to apply the standards for showing injury that the OHA has developed in analyzing a non-crude oil claims.

See, E.G., Dorchester Gas Corp., 14 DOE ¶ 85,240 (1986). These standards include a finding that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry were injured by a consent order firm's alleged overcharges. From our experience with subpart V refund proceedings, we believe that potential claimants will fall into the following categories: (1) End-users, *i.e.*, consumers who used refined petroleum products; (2) regulated non-petroleum industry entities that used Holly products in their businesses, or cooperatives that purchased Holly products for their businesses; and (3) Refiners, resellers or retailers who resold refined petroleum products.

In establishing the procedures which will govern the Holly Refund Proceeding, we propose to adopt certain presumptions that will permit claimants to participate in the refund process without incurring inordinate expense and will enable the OHA to consider refund applications in the most efficient manner possible. *American Pacific International*, 14 DOE ¶ 85,158 (1986) *(API)* First, we propose to adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined products made during the period of crude oil price controls and that refunds should therefore be made on a pro rata or volumtric per gallon basis. In the absence of better information, a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

We also propose to adopt a number of injury presumptions that will simplify and streamline the refund process. These presumptions will excuse members of certain applicant categories from proving that they were injured by Holly's alleged overcharges. We will discuss these presumptions and the showing that each type of applicant must make in Section II(a) below.

(A) Specific Application Requirements for Each Category of Refund Applicants

(1) Refund applications of end-Users. We propose to adopt a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period. Moreover, they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) *(Texas)*. Therefore, we propose that end-users of petroleum

---

[2] The Department of Energy established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themselves through the purchase and sale of entitlements to the lowest priced crude oil. This balancing mechanism had the effect of evenly dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *See, e.g., Amber Refining, Inc.* 13 DOE ¶ 85,217 (1985).

[3] The funds in the States' crude oil tracking account are distributed to the 56 States, territories and possessions of the United States whenever the total amount of the account equals 10 million dollars or as determined by the Director, OHA.

products need only to establish that they were ultimate consumers of a specific volume of petroleum products to qualify for a refund of their full allocable share.

(2) Refund applications of cooperatives and regulated firms. We also will not require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury as a result of alleged overcharges on refined products. Although such firms, *e.g.*, public utilities that used petroleum products as feedstocks and agricultural cooperatives, generally would have passed any overcharges through to their customers, they generally would pass through any refunds, as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers and provide us with a detailed explanation of how they plan to accomplish this restitution. We will also require them to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 85,538 at 85,303 (1982). We note, however, that a cooperative's sales of petroleum products to non-members will be treated in the same manner as sales by other resellers. Cooperatives should therefore provide the DOE with a breakdown of their sales volumes to members and non-members.

(3) Refund applications of resellers, retailers and refiners. We propose to adopt a presumption that resellers, retailers and refiners were generally able to pass any overcharges through to their customers. In order to qualify for a refund, resellers, retailers and refiners must therefore show that they were unable to pass through the effects of crude oil overcharges to their own customers. It will be extremely difficult for resellers and retailers to make such showing. The Entitlements program spread crude oil overcharges evenly throughout the industry. Because crude oil overharges equally affected *all* resellers and retailers (*i.e.*, the applicants and their competitors), regardless of supplier, we believe that resellers: and retailers' selling prices generally increased to the same degree. *See A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,896 (1987). It would be unreasonable to presume, therefore, that any reseller or retailer applicants in Subpart V crude oil proceedings were adversely affected or competitively injured by crude oil overcharges. Instead, we require a detailed demonstration that a reseller or retailer was unable to pass through the effects of crude oil overcharges to its customers. For example, a gasoline station would need to show that the minute fraction of a cent per gallon crude oil overcharge was absorbed by it rather than passed through to its customers as a result of overall higher prices in the gasoline market in its area.

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all Applications for Refund must be in writing and must be signed by the applicant. The OHA has issued a number of Decisions and Orders explaining crude oil refund procedures. Two Decisions describing crude oil refund procedures in detail are *Ernest Allerkamp*, 17 DOE ¶ 85,079 (1988), and *A. Tarricone*, 15 DOE ¶ 85,495 (1985). Individuals who have already filed an application for a crude oil refund will not be required to submit another application in order to be considered for a share of the money paid to the DOE by Holly.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Holly Corporation pursuant to the Amended Settlement Agreement, which became final in April 1988, will be distributed in accordance with the foregoing Decision.

[FR Doc. 88-24031 Filed 10-17-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00094; FRL-3464-4]

Biotechnology Science Advisory Committee; Health Subcommittee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Health Subcommittee of the Biotechnology Science Advisory Committee. The meeting will be open to the public. The Committee will be informed of and discuss issues associated with the biotechnology health research program of EPA's Office of Research and Development.

DATES: The meeting will be held on Monday and Tuesday, November 7 and 8, 1988, starting at 9 a.m. and ending at approximately 5 p.m.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Crystal Mall #2, Room 1112, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: John R. Fowle III, Ph.D., Environmental Protection Agency, Office of Health Research, Office of Research and Development (RD-683), 401 M St., SW., Washington, DC 20460 (202-382-5900).

SUPPLEMENTARY INFORMATION: Attendance by the public will be limited to available space. The Office of Research and Development will provide summaries of the meeting at a later date.

Dated: October 12, 1988.

Victor J. Kimm,

Acting Assistant Administrator, for Pesticides and Toxic Substances.

[FR Doc. 88-23961 Filed 10-17-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3463-8]

Opportunity to Comment; Water Pollution Control; Clean Water Act Class I and II Administrative Penalty Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for an alleged violation of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class I proceedings are conducted under EPA's Guidance on Class I Clean Water Act Administrative Penalty Procedures. The procedures through which the public may submit written comment on a proposed Class I order or participate in a Class I proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Guidance. The deadline for submitting public comments on a proposed Class I order is thirty (30) days after issuance of public notice.

On the date identified below, EPA commenced the following Class I proceeding for the assessment of penalties:

In the Matter of Chevron U.S.A. Inc., Barbers Point Refinery, Barbers Point, Honolulu, Hawaii; EPA Docket No. IX-FY88-54; filed on August, 1988 with the

Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974–8036; proposed penalty of $10,000, for discharging approximately 104,000 gallons of Jet–A fuel from a pipeline into Waiawa Stream and Middle Loch, Pearl Harbor, Hawaii, in violation of section 301(a) of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Guidance, review the Complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in this proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide an opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: October 6, 1988.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 88–23960 Filed 10–17–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and 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 protests or 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 and protests are found in § 560.7 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–011074–002.

Title: Baton Rouge Marine Contractors, Inc., Terminal Agreement.

Parties:

Strachan Shipping Company
I.T.O. Corporation
Cooper/T. Smith Stevedoring
Cavaliar Corporation
Kerr Steamship Co., Inc.

Filing Party: John P. Meade, Attorney, for Baton Rouge Marine Contractors, Inc., Suite 800, 1919 Pennsylvania Avenue NW., Washington, DC 20006–3483.

Synopsis: The agreement amendment empowers Baton Rouge Marine Contractors, Inc. to acquire and operate any marine terminal operation within the Port of Lake Charles in Louisiana.

By Order of the Federal Maritime Commission.

Dated: October 13, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–23933 Filed 10–17–88; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200046–001.

Title: Port of New Orleans Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans
Delta Petroleum Company, Inc.

Synopsis: The agreement provides for the renewal of the lease agreement of the Thalia Street Wharf for an additional one year term.

Agreement No.: 224–010910–001.

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland and Neptune Orient Lines, Ltd.
Orient Overseas Container Line, Ltd.,
Nippon Liner Systems, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.,
Japan Line, Ltd.

Synopsis: The agreement permits the substitution of Nippon Liner Systems, Ltd. (NLS), as a new joint party under the basic agreement on the condition that in the event of termination of the NLS joint service/consortium its individual parties, Yamashita-Shinnihon Steamship Co., Ltd. and Japan Line Ltd., will remain as individual joint parties under Agreement No. 224–010910.

Agreement No.: 224–010954–003.

Title: Georgia Ports Authority Terminal Agreement.

Parties:

Georgia Ports Authority
Mitsui O.S.K. Lines,
Nippon Yusen Kaisha,
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed agreement amends Agreement No. 224–010954 and changes the rate on receiving/delivery of cargoes and special service moves from $30.93 to $30.33.

Agreement No.: 224–004003–001.

Title: Long Beach Terminal Agreement.

Parties:

City of Long Beach
Toyota Motors Sales, U.S.A. (Toyota)

Synopsis: The proposed agreement amends Agreement No. 224–004003 and provides for Toyota to release certain leasehold property to LB and receive therefor a reduction of the annual rental at the Port of Long Beach.

By Order of the Federal Maritime Commission.

Dated: October 13, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–24021 Filed 10–17–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment on draft FY 1988 program guidelines/

application solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the draft Fiscal Year 1989 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program to inform the public and obtain public comments. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

DATE: Comments are due on or before November 15, 1988.

ADDRESS: Send comments to: Peter L. Regner, Director, Staff Operations and Programs, FMCS, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653–5320.

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees—FY 1989

A. Introduction

The following is the draft solicitation for the Fiscal Year 1989 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. A separate solicitation will be issued for support of the Fifth National Labor-Management Conference. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in Fiscal Year 1981. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section I. A copy of the Labor-Management Cooperation Act of 1978 follows this solicitation and should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term "labor" refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government. Those employees must be covered by a formal collective bargaining agreement. Employees covered by a so-called "meet and confer" agreement are not eligible under this program. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus on the committee.

In FY89, competition will be open to plant, area, private industry, and public sector committees. In-plant committee applications should offer an innovative or unique effort. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the

foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1989 as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which will briefly discuss what basic questions or issues the assessment examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment form *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For in-plant applicants, this section will address the degree of innovation or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vs. its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and,

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovatives, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligibility grantees include State and local units of government, private, non-profit labor-management committees (or a labor or management entity on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exception applies to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FMCS has allocated $930,000 for this program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for

award, the remaining applications will be awarded according to merit without regard to category.

FMCS reserves the right to retain up to 5 percent of the FY89 appropriation to contract for program support purposes other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio.

The total project period can thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation project are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period can thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $35,000, in FMCS funds per annum for existing in-plant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not the used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-mangement committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY89 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than May 6, 1989. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application, containing numbered pages, *plus three copies* should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street NW., Washington, DC 20427.

After the deadline has passed, all eligible applications, except for those for the National Conference, will be reviewed and scored initially by one or more FMCS Grant Review Boards. The Board(s) will decide which applications will be recommended for funding consideration. The Director, Labor-Management Grant Programs, will finalize the scoring and selection process for those applications recommended by the Board(s).

All FY89 grant applicants will be notified of results and all grant awards will be made before September 30, 1989. Applications submitted after the deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grant Programs.

H. Application Development Training

In FY89, FMCS will offer a half-day training program to assist potential applicants with the development and writing of an FMCS grant application. This training session will be conducted in Washington, DC, on December 8, 1988. Individuals interested in attending the session should contact FMCS to reserve a space. See Section I for contact information.

I. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained free of charge by contacting Lee A. Buddendick or Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street NW., Washington, DC 20427; or by calling 202/653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 88–23987 Filed 10–17–88; 8:45 am]

BILLING CODE 6732-01-M

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment on draft FY 1988 Program Guidelines/ Application Solicitation for National Labor-Management Conference.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the draft Fiscal Year 1989 Program Guidelines/Application Solicitation for the National Labor-Management Conference Program to inform the public and obtain public comments.

DATE: Comments are due on or before November 15, 1988.

ADDRESS: Send comments to: Peter L. Regner, Director, Staff Operations and Programs, FMCS, 2100 K Street NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653–5320.

Labor-Management Cooperation Program—FY 1989; Application Solicitation for the National Labor-Management Conference

A. Introduction

The following is the draft solicitation for the Fiscal Year 1989 cycle of the Labor-Management Cooperation Program as it pertains to the support of the Fifth National Labor-Management Conference scheduled for May 30–June 1, 1990. A separate solicitation has been issued for grants to support labor-management committees. The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant must know in order to develop an application for funding consideration. Directions for obtaining an application kit may be found in Section G.

B. Program Description

Objections

The Labor-Management Cooperation Act of 1978 was designed to promote the use of joint labor-management committees to deal with issues of mutual concern between labor and management. Since Fiscal Year 1981, the Federal Mediation and Conciliation Service has awarded about 100 grants for the direct support of these joint committees. In an effort to promote this concept to a larger audience, FMCS has also awarded four grants to support four national conferences which highlight developments and experiences of such committees around the nation. A total of about 4,700 persons have attended these four conferences.

The Fifth National Labor-Management Conference will be supported by FMCS through a competitive cooperative agreement. All application budget requests should focus directly on supporting the conference in cooperation with FMCS.

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss what problems or issues face today's business and labor leaders that can be addressed at the conference. This section basically discussed *WHY* such a conference is needed.

2. *Results or Benefits Expected*—The application must discuss *WHAT* the conference is expected to accomplish.

3. *Approach*—This section specifies in detail *HOW* the applicant will assist FMCS in accomplishing the goals and objectives. At a minimum, the following elements must be included:

(a) What services will the applicant provide in the planning, design, and marketing of the conference.

(b) What services will the applicant provide in the administration of the conference.

(c) What services will the applicant provide in the evaluation of the conference.

(d) What kind of technical assistance will the applicant provide as a follow-up to the conference.

(e) What experience has the applicant had in supporting conferences and/or labor-management cooperation.

(f) What kind of computer-based registration system will be used and its capacities.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as WHEN each will be completed

5. *Other Requirements*—Applicants are also responsible for the following:

(a) A detailed budget narrative based on applicable policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(b) A position description or resume of a proposed/actual person who will act as the Conference Administrator. The Conference Administrator must reside in the Washington, DC area;

(c) A copy of the proposed agreement or contract between the applicant and the Conference Administrator;

(d) An acknowledgement that the selection of the Conference Administrator is subject to prior approval by FMCS.

Selection Criteria

The following criteria will be used in scoring and selecting an applicant for award:

(1) The extent to which an applicant has identified an understanding of the issues and problems facing labor and management that can be addressed through the conference.

(2) The appropriateness of the expectations of what can be accomplished through the conference.

(3) The feasibility of the approach proposed in carrying out the conference. This includes and evaluation of how comprehensive the proposed support services are and the feasibility of the applicant in providing the services in a satisfactory manner.

(4) The feasibility and thoroughness of the implementation plan and major milestones.

(5) The cost effectiveness and fiscal soundness of the applicant's budget request.

C. Eligibility

Applicant eligibility is limited to national scope labor-management committees/organizations or private non-profit organizations which can document that a major purpose or function of other organization has been the improvement of labor relations.

D. Allocations

FMCS has allocated $70,000 for this effort. This amount, plus any project income, must cover all conference expenses including speaker travel, postage, food and beverage, salary, audio-visual equipment rental, etc. Requests for blanket or fixed indirect (overhead) costs will be denied.

E. Length of Award and Match

The length of award will be 19 months beginning March 1, 1989 and ending September 30, 1990. No matching funds will be required for this cooperative agreement.

F. Application Submission and Review

Applications must be postmarked no later than January 28, 1989. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application, plus one copy, should be addressed to the Office of Labor-Management Grant Programs, FMCS, 2100 K Street NW., Washington, DC 20427.

After the deadline has passed, all eligible conference applications will be reviewed, scored, and selected by the Director, Labor-Management Grant Programs who also serves as Conference Coordinator. Due to the special nature of this cooperative agreement, a Grant Review Board will not be used. All conference applicants will be notified of results prior to February 28, 1989. Applications submitted after the deadline date or that fail to adhere to eligibility or other major requirements may be administratively rejected by the Director, Labor-Management Grant Programs.

G. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained free of

charge by contacting Peter L. Regner, Labor-Management Grant programs, FMCS, 2100 K Street, NW., Washington, DC 20427, or by calling (202) 653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 88–23988 Filed 10–17–88; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Vital and Health Statistics National Committee Meeting

Action: Notice of Meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics.

Time and Date: 1:00 pm–4:45 pm—November 2; 9:00 am–5:00 pm—November 3; 9:00 am–12:30 pm—November 4.

Place: Hubert H. Humphrey Building, Room 703A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Committee to receive and consider reports from each of its subcommittees and to address new business as appropriate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: October 12, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–23970 Filed 10–17–88; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 88N–0354]

Drug Export; Adalat PA–20 (Nifedipine) 20 MG Tablets

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Miles Inc., Pharmaceutical Division has filed an application requesting approval for the export of the human drug Adalat PA–20 (nifedipine) 20 mg Tablets to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Division of Drug Labeling Compliance (HFN–310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Miles Inc., Pharmaceutical Division, 400 Morgan Lane, West Haven, CT 06516, has filed an application requesting approval for the export of the drug Adalat PA–20 (nifedipine) 20 mg Tablets, to Canada. This drug is used as an antihypertensive agent. The application was received and filed in the Center for Drug Evaluation and Research on October 4, 1988, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 28, 1988, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: October 7, 1988.

Albert Rothschild,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 88–23996 Filed 10–17–88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC–463–NC]

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1988

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with comment period.

SUMMARY: This final notice with comment period sets forth an updated schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. This updated scheduled of limits applies to cost reporting periods beginning on or after July 1, 1988.

DATES: Effective Date: The schedule of limits is effective for cost reporting periods beginning on or after July 1, 1988.

Comment Date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on December 19, 1988.

ADDRESSES: Mail comments to the following addresses: Health Care Financing Administration, Department of Health and Human Services, Attn: BERC–463–NC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC.
Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC–463–NC. Comments will be available for public inspection as they are received, generally beginning about three weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Steven R. Kirsh, (301) 966–5653.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1)(A) of the Social Security Act (the Act) authorizes the Secretary to establish limits on allowable costs incurred by a provider of services that may be reimbursed under the Medicare program, based on estimates of the costs necessary for the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 413.30. Additional provisions specifically governing the limits applicable to HHAs are contained in section 1861(v)(1)(L) of the Act.

Under this authority, we have maintained limits on home health agency (HHA) per visit costs since 1979. This notice with comment period updates the current schedule of limits published in the **Federal Register** on July 7, 1987 (52 FR 25562), which is applicable to HHA costs for cost reporting periods beginning on or after July 1, 1987. This updated schedule takes into account the effects of inflation on HHA operating costs and is applicable to cost reporting periods beginning on or after July 1, 1988.

On December 22, 1987, the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) was enacted. Section 4026(a) of Pub. L. 100–203 amended section 1861(v)(1)(L) of the Act to provide that, in establishing the schedule of limits for cost reporting periods beginning on or after July 1, 1988, the Secretary will use a wage index that is based on audited wage data obtained for HHAs and base the limits on the most recent data available which may be for cost reporting periods beginning no earlier than July 1, 1985. Section 411(d)(5) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360), which was enacted on July 1, 1988, provides for an extension of the effective date of the amendment made by extension 4026(a) of Pub. L. 100–203 to July 1, 1989 and amends section 1861(v)(1)(L)(iii) of the Act to provide that the data used to construct the HHA-specific wage index and the schedule of limits for cost reporting periods beginning on or after July 1, 1989 must be "verified" rather than "audited." In addition, section 1861(v)(1)(L)(iii) of the Act is amended by section 411(d)(5)(A)(ii) of Pub. L. 100–360 to provide that in the case of an HHA that refuses to provide data or provides false data requested by the Secretary for purposes of constructing an HHA wage index, the Secretary may withhold up to five percent of the Medicare payment due that HHA until the data are provided. We discuss these statutory provisions below.

II. Update of Limits

The methodology used to develop the schedule of limits set forth in this notice is the same as that used in setting the limits effective for cost reporting periods beginning on or after July 1, 1987. The limits have, however, been updated to include and accommodate the use of more recent cost report data.

A. Use of More Current Data

Under the schedule of limits that was published in the **Federal Register** on July 7, 1987 (52 FR 25562), we extracted actual cost per visit data from Medicare cost reports for periods beginning on or after October 1, 1983. We then adjusted the data using the latest available market basket factors to reflect cost increases occurring between the cost reporting periods contained in our data base and December 31, 1987. In this notice, we are using more recent data. The updated schedule of limits was determined by using data taken from HHA cost reports beginning on or after October 1, 1985. By using more current data, we believe that the new limits will reflect more accurately the costs of HHAs.

Even though these are the most recent data available, we recognize that Pub. L. 100–203 contains a provision the implementation of which may result in some HHAs incurring some costs that would not be reflected in the cost limits. Section 4021 of Pub. L. 100–203 requires changes in home health aide training and certification. While the initial changes are not effective until July 1, 1989, it is possible that, in preparing for these changes, some HHAs may incur aide training costs during their fiscal year beginning on or after July 1, 1988. It is not possible to estimate the overall impact, if any, this provision will have on an agency's total cost. However, this would present a problem only if the agency's costs exceed the cost limits because of these additional training requirements. In those instances in which an HHA's costs do exceed the cost limits because of these training requirements, an agency can apply for an exception to the cost limits under the exceptions process outlined in § 413.30. This situation could be recognized as an "extraordinary circumstance" as defined at § 413.30(f)(2).

B. Add-on for Changes in Billing and Verification Costs

Because we are using post-October 1, 1985 cost report data, it is no longer necessary to retain the add-on for billing and verification costs that was provided in the July 1, 1986 and July 1, 1987 schedule of limits. In September 1985, HCFA changed the forms for HHA billing and verification procedures, and instituted the HCFA 485 series of forms. This series of forms consists of the Plan of Treatment and Home Health Certification Form (HCFA–485), the Medical Information Form (HCFA–486), an Addendum to the HCFA–485 and 486 (HCFA–487), and the HHA Intermediary Medical Information Request (HCFA–488). The information on these forms is needed to determine eligibility of beneficiaries for services.

Many HHAs complained about the costs associated with completing this series of forms. Congress responded to these complaints by enacting section 9315(b)(2) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) (42 U.S.C. 1395x note). This section requires that, in establishing the HHA limits for cost reporting periods beginning on or after July 1, 1986, HCFA must take into account the changes in costs of HHAs for billing and verification procedures that result from HCFA changing the requirements for these procedures to the extent that these increased costs are not reflected in the data HCFA uses to set the limits. Thus, to satisfy the statutory requirement of section 9315(b) of Pub. L. 99–509, HCFA added to the base limit values for both the July 1, 1986 and the July 1, 1987 limits an amount to account for the increase in an HHA's costs that resulted from the changes to the billing and verification forms.

Since we are using a later data base that includes HHAs' actual costs for billing and verification, we are eliminating this separate estimated add-on from the methodology used to calculate the July 1, 1988 schedule of

limits because we believe it is no longer necessary. The data from HHA cost reporting periods beginning on or after October 1, 1985 already reflect the increased costs incurred by providers in completing the HCFA 485 series of forms since these forms were introduced in September 1985. Although we subsequently made changes to these forms between April 1 and June 1, 1988, these changes represent format changes and not changes in content. While we believe that the revisions make the forms less burdensome to complete, the relative cost associated with preparing the forms should be unchanged. Therefore, to continue to provide an add-on would result in the cost limits including a duplicate allowance for billing and verification costs.

C. Wage Index

Although we have not changed the wage index from that which was used in the July 1, 1987 schedule of limits, the contemplated modifications to the wage index and the reasons for not implementing the modifications are discussed below. The wage index is used to adjust the labor-related portion of the limits and the administrative and general (A&G) add-on to reflect differing wage levels among areas. In setting the two previous schedules of limits (that is, the schedule of limits applicable to cost reporting periods beginning on or after July 1, 1986 but before July 1, 1987, and the schedule of limits for cost reporting periods beginning on or after July 1, 1987), we used the HCFA survey-based hospital gross wage index that was developed based on 1982 hospital and salary data obtained from a survey conducted by HCFA. A description of the methodology used to compute the gross wage index was described in the March 25, 1986 proposed notice published in the **Federal Register** (51 FR 10267). That notice discussed the use of the HCFA survey-based wage index in calculating HHA cost limits for cost reporting periods beginning on or after July 1, 1986.

Section 4026(a) of Pub. L. 100–203 added section 1861(v)(1)(L)(iii)(I) of the Act to require that the Secretary, in establishing the HHA cost limits for cost reporting periods beginning on or after July 1, 1988, use a wage index based on audited wage data from home health agencies. However, as discussed above, section 411(d)(5) of Pub. L. 100–360 subsequently extended the effective date for implementing this wage index from July 1, 1988 to July 1, 1989 and provided that the wage index must be based on verified data, rather than audited data. Prior to the enactment of Pub. L. 100–360, in an effort to meet the July 1, 1988 effective date and construct an HHA-specific wage index, we reviewed all data available. However, because of the lack of usable wage data, we were unable to develop such a wage index and have therefore continued to use the wage index methodology used in the July 1, 1987 limits.

Before initiating a new data collection effort, we carefully reviewed the data sources that were available. The first data source we reviewed was Exhibit 7 of the HCFA–339, Provider Wage Index Data Report. Exhibit 7 solicits information on wages, paid hours, hours of service, and fringe benefit ratios from HHAs, hospitals, and skilled nursing facilities. Exhibit 7 was to be submitted with all cost reports filed after December 31, 1985 and before January 1, 1987. A description of this form and the filing requirements are found in Chapter 11 of the Provider Reimbursement Manual (HCFA Pub. 15–2). Even though the data from Exhibit 7 were unaudited, we hoped that they could be easily verified and used to establish a wage index.

Of the approximately 5,900 HHAs, we received about 2,000 HCFA–339s. while the instructions required wage data to be reported on an hourly basis, some of the forms showed wages on an hourly basis, some showed wages on a per visit basis, and on other forms it was not possible to determine on what basis the wages were shown. Therefore, the data could not be used as submitted. Further, we believe it would be more time consuming to correct and verify the data already submitted than it would be to require a new survey.

We also reviewed previously submitted cost report data. Using data from the statistical page and worksheet A of the HCFA–1728, there were approximately 2,599 providers represented in our data base. These were also unaudited data that would have required verification. When we attempted to create a wage index using these data, we found that there were 34 Metropolitan Statistical Areas (MSAs) with no HHAs reporting. In addition to having an insufficient number of HHAs reporting to establish a reliable wage index, much of the data we obtained was of questionable accuracy. For example, there were HHAs reporting aide salaries of less than $2.00 per hour, as well as HHA's with skilled nursing salaries per hour less than aide salaries per hour for the same HHA.

When we compared the HHA wage index computed from our data with the hospital wage index currently used, we found variations that could not be explained except by faulty data reported by the HHAs. The wage index values of 58 percent of the MSAs changed by 10 percent or more. Of these changes, more than half resulted in a decrease in the wage index. Some of the changes were of such magnitude that the data were clearly aberrant. There are 11 MSA wage index values that increased by 50 percent or more and 2 that decreased by the same magnitude. Most of the high magnitude changes point to poor reporting of wages and hours. Clearly, the wage index value in Amarillo, Texas should not have decreased 44 percent from 0.9595 to 05334 and the wage index value for Duluth, MN–WI should not have increased from 0.9930 to 1.9190, a change of 92 percent.

The HHA wage index that we constructed based on data available from HHA cost reports is set forth as an addendum to this notice. We have included the wage index values currently being used by HHAs and shown the percentage increase or decrease from those wage index values to the HHA wage index values. All those areas with no HHAs reporting wage data were assigned a value of 1.0000 so that these areas would not affect the national average wage index value.

Obviously, before the currently available data can be used to construct an HHA wage index, the missing information has to be obtained, the questionable data corrected, and all of the data must be verified. To simply eliminate the questionable data (excessively low or high hourly salaries) would not solve the problem of missing data nor would it eliminate the need for verification.

We have instituted a special data collection to comply with Congress' explicit requirement in section 4026(a) that we use a wage index that is based on wage data obtained from HHAs. These data will come from HHA Medicare cost reports submitted to fiscal intermediaries for the cost reporting periods ending between September 30, 1986 and August 31, 1987. Fiscal intermediaries will contact HHAs to obtain needed data corrections for properly completed cost reports. Even with the delay granted by section 411(d)(5) of Pub. L. 100–360, the time constraint for making these corrections is very limited; therefore, we must have immediate and accurate responses from providers. The development of this wage index is a requirement of the law, and we cannot accept delays in receipt of the data. As disscused above, under amended section 1861(v)(1)(L)(iii) of the Act, if an HHA refuses to provide data requested for the purposes of

constructing the HHA wage index or deliberately provides false data, the intermediary may withhold up to five percent of the amount that is otherwise payable to the HHA until the data have been satisfactorily provided. Any HHA that does not submit accurate data timely as requested by its intermediary is subject to this penalty provision.

III. Provisions of the Notice

The schedule of limits set forth below was calculated using 112 percent of the mean cost of free-standing HHAs, and is based on the latest cost data available at this time and adjusted by the latest estimates in the market basket index.

The proposed schedule of limits effective for cost reporting periods beginning on or after July 1, 1988 provides for the following:

A. A classification system based on whether an HHA is located within an MSA, a NECMA or a non-MSA area. (See Tables IIIa and IIIb in section VII, below, for the listing of MSA/NECMA areas.)

B. The use of a single schedule of limits for hospital-based and freestanding agencies. This single limit is based on the cost experience of freestanding agencies. For each hospital-based discipline, we have provided for an add-on adjustment of the freestanding HHA limit (which is equal to 12.29 percent of the mean cost for the MSA hospital-based group and 12.86 percent for the non-MSA hospital-based group) to account for the higher A & G costs resulting from Medicare cost allocation requirements. The labor-related portion of the add-on, adjusted by the appropriate wage index, plus the nonlabor portion, would be added to each freestanding limit to determine the per discipline limits for hospital-based agencies.

C. The use of the following market basket index developed from the price of goods and services purchased by HHAs to account for the impact of changing wage and price levels on HHA costs. The limit values contained in this schedule reflect the latest available actual and projected rates of inflation in HHA expenses. The categories used were identified through an analysis of 1977 Medicare cost reports and other available home health industry surveys. The categories of expenses are weighted according to the estimated proportion of HHA costs attributable to each category.

The categories used in the market basket contained in this schedule have not changed from those used for the July 1, 1987 schedule. However, the relative cost shares used change over time because of differences in the rate of increase in the various price variables. Categories with higher rates of price increases receive higher weights and vice versa.

In developing the relative weights used in the market basket index contained in this schedule, we obtained historical and projected rates of increase in the resource prices for each category. The price variables and the source of the forecast for calendar years 1988 through 1990 are identified in the third and fourth columns of the updated market basket included in this notice.

HOME HEALTH AGENCY INPUT PRICE INDEX: COST CATEGORIES, RELATIVE IMPORTANCE, FORECASTERS, AND PRICE VARIABLES USED

Cost categories	Relative [1] importance 1989	Forecaster of [2] percent (1988–1990)	Price variables used
Wages and salaries	67.19	DRI–CFS	Average hourly earnings of nonsupervisory private hospital workers (SIC 806) Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings (Monthly).
Employee benefits	7.57	DRI–TL	Supplements to wages and salaries per worker in non-agriculture establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly.) For total employment—U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly).
Transportation	4.22	DRI–TL	Transportation component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Office costs	2.91	DRI–TL	Services Component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Medical nursing	2.54	HCFA–HHS	Medical equipment and supplies component of the supplies and rental Consumer Price Index, all urban. Source: U.S. equipment Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Rent	1.22	DRI–CFS	Residential rent component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor Statistics, Monthly Labor Review.
Nonrental space	1.13	DRI–TL	Composite Fuel and Other Utilities Index. Source: HHS–HCFA Community Hospital Price Index.
Miscellaneous	6.35	DRI–TL	Consumer Price Index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review.
Contract services	6.87		Weighted mean of price variables for the preceding eight items.
Total	100.00		

[1] Relative cost weights for 1977 were derived from special studies by HCFA using primarily data from HCFA Medicare cost reports and data from the Council of Home Health Agencies and Community Health services. A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. The relative importance values change over time in accordance with price changes for each price variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa.

[2] DRI–TL refers to Data Resources, Inc., Trendlong (TL 88Q1), 29 Hartwell Avenue, Lexington, Massachusetts 02173; DRI–CFS refers to Data Resources, Inc., Cost Forecasting Services (CFS–88Q1), 1750 K Street NW., Washington, DC 20006.

D. An adjustment to the limits if the estimated market basket rate differs from the actual rate by more than 3/10 of one percentage point (that is, higher or lower).

E. The use of the HCFA hospital wage index as revised and published in the **Federal Register** on July 7, 1987 (52 FR 25562) as part of the final rule that announced the HHA cost limits effective for cost reporting periods beginning on or after July 1, 1987. The wage index is used to adjust the labor-related portion of the limits and the A&G add-on to reflect differing wage levels among the areas (MSA/NECMA and non-MSA) in which HHAs are located. The employee wage portion of the market basket index (67.19 percent) and the employee benefits portion (7.57 percent), plus a factor representing a proportionate share of contract services (5.52 percent), are used to determine the labor component (80.28 percent) of all HHA per visit costs used to set the limits.

F. Separate treatment of the labor-related and nonlabor components of per

visit costs. The separate components of costs are calculated by obtaining actual HHA cost data for each agency for cost periods beginning on and after October 1, 1985 and increasing those data by the actual and projected increases in the HHA market basket. We then separate each HHA's per visit costs into labor and nonlabor portions, and divide the labor portion by the wage index value for the agency's location to control for the effect of wage geographic variations in prevailing wage levels. Separate means are computed for the labor and nonlabor components of per visit costs. For each comparison group, the resulting amounts are shown in Table I of section VI, below.

G. The use of a cost of living adjustment to the nonlabor portion of the limit for HHAs in Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

H. Limits that are determined for the per visit cost of each type of service: Skilled nursing care, physical therapy, speech pathology, occupation therapy, medical social services, and home health aide.

I. Application of the limits in the aggregate after the provider's actual costs are ajdusted. A provider's actual costs are adjusted for individual items of cost that are found to be excessive under Medicare principles of provider reimbursement and for reimbursable costs that are not included in the limitation amount. The limits are applied in the aggregate to the costs remaining after these adjustments are made.

IV. Methodology for Determining Cost Per Visit Limits

A. Data

For this notice, the limit values were determined by extracting actual cost per visit data from Medicare cost reports for periods beginning on and after October 1, 1985 and before October 1, 1986. We then adjusted the data using the latest available market basket factors to reflect cost increases occurring between the cost reporting periods contained in our data base and December 31, 1988 (the midpoint of the first cost reporting period to which the limits will apply). The following annual percentage increases were used to compute the per visit costs:

Calendar year	Percent increase
1986	[1] 3.1
1987	[1] 4.5
1988	[2] 4.9
1989	[2] 5.1
1990	[2] 5.8

[1] Final rate.

[2] Forecasted increases. The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase differs from the estimated rate by more than ⅗ of one percentage point. We will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each HHA's cost limit at the time of final settlement.

B. Standardization for Wage Levels

After adjustment by the market basket index, we divided each HHA's per visit costs into labor and nonlabor portions. The labor portion of costs (80.28 percent) was determined by using the 74.76 percent employee wage and benefit factor from the market basket, plus 5.52 percent, which represents a proportionate share of the market basket relative importance for contract services. We then divide the labor portion of per visit costs by the wage index applicable to the HHA's location to arrive at an adjusted labor cost.

C. Adjustment for "Outliers"

We transformed all per visit cost data into their natural logarithms and grouped them by type of service and MSA/NECMA and non-MSA locations, in order to determine the mean cost and standard deviation for each group. We then eliminated all "outlier" costs, retaining only those per visit costs within two standard deviations from the mean in each service.

D. Basic Service Limit

A basic service limit equal to 112 percent of the mean labor and nonlabor portions of the per visit costs of freestanding HHAs is calculated for each type of service. (See Table I of section VI.)

V. Computing the Adjusted Limit

A. Adjustment of Limits by Wage Index

To arrive at the adjusted limit, which is to be applied to each service furnished by an HHA, the Medicare fiscal intermediary first multiplies the labor-related component of the limit for the comparison group by the appropriate wage index. (See Table I in section VI and Tables IIIa and IIIb in section VII.) The adjusted limit applicable to an HHA is the sum of the nonlabor component plus the adjusted labor-related component.

Example-Calculation of Adjusted Occupational Therapy Limit for a Freestanding HHA in Dallas, TX

Labor component (Table I)	$50.41
Wage index (Table IIIa)	×1.0733
Adjusted labor component	$54.11
Nonlabor component (Table I)	+13.73
Adjusted occupational therapy limit	$67.84

B. Adjustment for Reporting Year

If an HHA has a cost reporting period beginning on or after August 1, 1988, the adjusted per visit limit for each service is revised by a factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded rate of monthly increase derived from the projected annual increase in the market basket index, and is used to account for inflation in costs that will occur after the date on which the limits become effective.

For example, an HHA's cost reporting period begins January 1, 1989. As calculated in the example in section V.A. of this notice, the labor adjusted per visit limit for occupational therapy for this HHA's group is $67.84.

Computation of Revised Limit for Occupational Therapy

Adjusted per visit limit	$67.84
Adjustment factor from Table IV	×1.0254
Revised per visit limit	$69.56

In this example, the revised adjusted per visit limit for occupational therapy applicable to this HHA for the cost reporting period beginning January 1, 1989 is $69.56 per visit.

If an HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of the cost reporting period. For cost reporting periods of other than 12 months in duration, the calculation must be done specifically for the midpoint of the cost reporting period. In such cases, the intermediary for the HHA must obtain this adjustment factor from HCFA.

C. Adjustment for Hospital-Based Agencies

If an HHA participates in the Medicare program as part of a hospital that is required to file a HCFA–2552 cost report (hospital cost report) (see Chapters 12, 15, and 19 of HCFA Pub. 15–2), and qualifies as hospital-based in accordance with the requirements specified in the schedule of limits

published June 5, 1980 (45 FR 38014), the HHA will be considered a hospital-based agency and will be considered entitled to an adjustment of the per visit limit to account for higher administrative and general costs resulting from the Medicare cost allocation requirements. (See section III.B. of this preamble, above.) The intermediary would compute the adjusted cost limit as described in the example following Table II.

VI. Schedule of Limits

The schedule of limits set forth below applies to cost reporting periods beginning on or after July 1, 1988. The intermediaries compute the adjusted limits using the wage indexes published in Tables IIIa and IIIb of section VII and notify each HHA they service of its applicable limits.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Medical supplies that are not routinely furnished in conjunction with patient care visits and are directly identifiable as services to an individual patient (that is, medical supplies for which a separate charge is made, in addition to the per visit charge) are excluded from the per visit cost if they meet all of the following criteria:

- The common and established practice of comparable HHAs in the area is to charge separately for the items.
- The HHA follows a consistent charging practice for Medicare and non-Medicare patients receiving the item.
- Generally, the item is not frequently furnished to patients.
- The item is directly identifiable to an individual patient and its cost can be identified and accumulated in a separate cost center.
- The item is furnished at the direction of the patient's physician and is specifically identified in the plan of treatment.

This explanation of nonroutine medical supplies is consistent with instructions for reporting the cost of these supplies on the revised HHA cost report, forms HCFA-1728 and HCFA-2552K. The reasonable cost of durable medical equipment and supplies that are not routinely furnished in conjunction with patient care visits is reimbursed without regard to the schedule of limits.

The intermediary determines the limit for each HHA by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the HHA's total allowable cost.

Example: HHA A, a freestanding agency located in Charlottesville, Virginia made 5,000 skilled nursing, 2,000 physical therapy, and 4,000 home health aids covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning July 1, 1988.

The aggregate cost limit is determined as follows:

Type of visit	Visit	Nonlabor portion	Adjusted labor portion	Adjusted limit	Aggregate limit
Skilled nursing	5,000	$13.50	$47.52	$61.02	$305,100
Physical therapy	2,000	13.05	45.98	59.03	118,060
Home Health aide	4,000	7.89	27.90	35.79	143,160
Aggregate cost limit					566,320

Before the limits are applied at cost settlement, the provider's actual costs are reduced by the amount of individual items of cost (for example, administrative compensation or contract services) that are found to be excessive under Medicare principles of provider reimbursement. In this regard, the fiscal intermediaries review the various reported costs against such screens as the cost guidelines for physical therapy under arrangements (see § 413.106) and against the limitation on costs that are substantially out of line with those of comparable agencies (see § 413.9).

TABLE I.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES

Type of visit	Limit	Labor portion	Nonlabor portion [1]
MSA (NECMA) location:			
Skilled nursing care	$64.35	$50.85	$13.50
Physical therapy	62.25	49.20	13.05
Speech pathology	67.61	53.41	14.20
Occupational therapy	64.14	50.41	13.73
Medical social services	93.08	72.89	20.19
Home health aide	37.75	29.86	7.89
Non-MSA location:			
Skilled nursing care	70.51	58.19	12.32
Physical therapy	70.86	58.59	12.27
Speech pathology	76.67	63.30	13.37
Occupational therapy	77.56	63.81	13.75
Medical social services	107.80	88.10	19.70
Home health aide	36.30	29.98	6.32

[1] Nonlabor portion of limits for HHAs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska	1.250
Hawaii:	
Oahu	1.225
Kauai	1.175
Maui, Lanai, and Molokai	1.200
Hawaii (island)	1.150
Puerto Rico	1.100
Virgin Islands	1.125

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

Type of visit	A&G Add-On	Labor portion	Nonlabor portion
MSA (NECMA) location:			
Skilled nursing care	$9.31	$7.29	$2.02
Physical therapy	7.92	6.19	1.73
Speech pathology	8.66	6.79	1.87
Occupational therapy	8.35	6.49	1.86
Medical social services	14.64	11.27	3.37
Home health aide	4.86	3.81	1.05
Non-MSA location:			
Skilled nursing care	10.40	8.58	1.82
Physical therapy	10.51	8.67	1.84

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES—Continued

Type of visit	A&G Add-On	Labor portion	Nonlabor portion
Speech pathology	10.74	8.86	1.88
Occupational therapy	11.64	9.50	2.14
Medical social services	16.40	13.36	3.04
Home health aide	5.09	4.21	0.88

Example

A hospital-based agency in Orlando, FL has a wage index of 1.0188. It provides the following services:

Skilled nursing
Physical therapy
Home health aides

The published limits for that agency are:

	Limit		Add-On	
	Labor portion	Nonlabor portion	Labor portion	Nonlabor portion
SN	$50.85	$13.50	$7.29	$2.02
PT	49.20	13.05	6.19	1.73
HHA	29.86	7.89	3.81	1.05

CALCULATION OF HOSPITAL-BASED LIMIT WITH ADD-ON

	SN	PT	HHA
Limit labor portion	$50.85	$49.20	$29.86
Add-on labor portion	+7.29	+6.19	+3.81
Total labor portion	$58.14	$55.39	$33.67
Wage index	×1.0188	×1.0188	×1.0188
Adjusted labor portion	$59.23	$56.43	$34.30
Limit nonlabor portion	13.50	13.05	7.89
Add-on nonlabor portion	+2.02	+1.73	+1.05
Adjusted limits	$74.75	$71.21	$43.24

VII. Wage Indexes

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	.9003
Taylor, TX	
Aguadilla, PR	[1] .5581
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	1.1080
Portage, OH	
Summit, OH	
Albany, GA	.8183
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	.9248
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Alburquerque, NM	1.1078
Bernalillo, NM	
Alexandria, LA	.9169
Rapides, LA	
Allentown-Bethleham, PA-NJ	1.0454
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	1.0022
Blair, PA	
Amarillo, TX	.9595
Potter, TX	
Randall, TX	
Anaheim-Santa Ana, CA	1.2616
Orange, CA	
Anchorage, AK	1.5849
Anchorage, AK	
Anderson, IN	.9882
Madison, IN	
Anderson, SC	.8369
Anderson, SC	
Ann Arbor, MI	1.2607
Washtenaw, MI	
Anniston, Al	.8519
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	1.0666
Calument, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	[1].6081
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	.8844
Buncombe, NC	
Athens, GA	.8179
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	.9663
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0566
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	.9602
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	1 1015
Kane, IL	
Kendall, IL	
Austin, TX	1 1177
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.2059
Kern, CA	
Baltimore MD	1.1150
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	.9285
Penobscot, ME	
Baton Rouge, LA	.9825
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	1.0302
Calhoun, MI	
Beaumont-Port Arthur, TX	1.0082
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0919
Beaver, PA	
Bellingham, WA	1.1471
Whatcom, WA	
Benton Harbor, MI	.8911
Berrien, MI	
Bergen-Passaic, NJ	1.0748
Bergen, NJ	
Passaic, NJ	
Billings, MT	1.0226
Yellowstone, MT	
Biloxi-Gulfport, MS	.8489
Hancock, MS	
Harrison, MS	
Binghampton, NY	.9558
Broome, NY	
Tioga, NY	
Birmingham, AL	.9663
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	.9943

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Burleigh, ND	
Morton, ND	
Bloomington, IN	.9899
Monroe, IN	
Bloomington-Normal, IL	.9844
McLean, IL	
Boise City, ID	1.0584
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1560
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.1326
Boulder, CO	
Bradenton, FL	.9196
Manatee, FL	
Brazoria, TX	.8742
Brazoria, TX	
Bremerton, WA	.9813
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1846
Fairfield, CT	
Brownsville-Harlingen, TX	.8977
Cameron, TX	
Bryan-College Station, TX	.9569
Brazos, TX	
Buffalo, NY	1.0687
Erie, NY	
Burlington, NC	.7926
Alamance, NC	
Burlington, VT	1.0131
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	1.6279
Caguas, PR	
Guarabo, PR	
San Lorenz, PR	
Aguas Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	1.0080
Carroll, OH	
Stark, OH	
Casper, WY	1.1063
Natrona, WY	
Cedar Rapids, IA	1.0174
Linn, IA	
Champaign-Urbana-Rantoul, IL	.9965
Champaign, IL	
Charleston, SC	.8912
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	1.0482
Kanawha, WV	
Putnam, WV	
Charlotte-Gastonia-Rock Hill, NC-SC	.8991
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	.9345
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN-GA	1.0041

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	.9702
Laramie, WY	
Chicago, IL	1.2351
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.2463
Butte, CA	
Cincinnati, OH-KY-IN	1.1050
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	.8183
Christian, KY	
Montgomery, TN	
Cleveland, OH	1.1565
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.0439
El Paso, CO	
Columbia, MO	1.1022
Boone, MO	
Columbia, SC	.9168
Lexington, SC	
Richland, SC	
Columbus, GA-AL	.7929
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	.9684
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	.9899
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	.8996
Allegany, MD	
Mineral, WV	
Dallas, TX	1.0733
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	.8087
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA-IL	1.0660
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.0939
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	.9139
Volusia, FL	
Decatur, AL	.7564

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Lawrence, AL	
Morgan, AL	
Decatur, IL	.9592
Macon, IL	
Denver, CO	1.2865
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	1.0556
Dallas, IA	
Polk, IA	
Warren, IA	
Detroit, MI	1.1725
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	.8457
Dale, AL	
Houston, AL	
Dubuque, IA	1.0590
Dubuque, IA	
Duluth, MN-WI	.9930
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	.9498
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	.9437
El Paso, TX	
Elkhart-Goshen, IN	.9650
Elkhart, IN	
Elmira, NY	.9741
Chemung, NY	
Enid, OK	.9626
Garfield, OK	
Erie, PA	.9991
Erie, PA	
Eugene-Springfield, OR	1.1163
Lane, OR	
Evansville, IN-KY	1.0217
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND-MN	1.0644
Clay, MN	
Cass, ND	
Fayetteville, NC	.8330
Cumberland, NC	
Fayetteville-Springdale, AR	.8078
Washington, AR	
Flint, MI	1.2104
Genesee, MI	
Florence, AL	.7889
Colbert, AL	
Lauderdale, AL	
Florence, SC	.7686
Florence, SC	
Fort Collins-Loveland, CO	1.0846
Larimor, CO	
Fort Lauderdale-Hollywood-Pompano Beach, FL	1.1249
Broward, FL	
Fort Myers-Cape Coral, FL	.9533
Lee, LF	
Fort Pierce, FL	1.0215
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK	.9243

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	.8751
Okaloosa, FL	
Fort Wayne, IN	.9568
Allen, IN	
De Kalb, IN	
Whitley, IN	
Fort Worth-Arlington, TX	.9998
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.1490
Fresno, CA	
Gadsden, AL	.8777
Etowah, AL	
Gainesville, FL	.9642
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	1.1412
Galveston, TX	
Gary-Hammond, IN	1.0978
Lake, IN	
Porter, IN	
Glen Falls, NY	.9607
Warren, NY	
Washington, NY	
Grand Forks, ND	.9871
Grand Forks, ND	
Grand Rapids, MI	1.0663
Kent, MI	
Ottawa, MI	
Great Falls, MT	1.0722
Cascade, MT	
Greeley, CO	1.0763
Weld, CO	
Green Bay, WI	1.0326
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	.9388
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	.9130
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	.9585
Washington, MD	
Hamilton-Middletown, OH	1.0214
Bulter, OH	
Harrisburg-Lebanon-Carlisle, PA	.9868
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-Middletown-New Britain-Bristol, CT	1.1486
Hartford, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	.8982
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.2022
Honolulu, HI	
Houma-Thibodaux, LA	.9229
Lafourche, LA	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Terrebonne, LA	
Houston, TX	1.06
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH	.9509
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	.8661
Madison, AL	
Indianapolis, IN	1.0594
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	1.3084
Johnson, IA	
Jackson, MI	1.0206
Jackson, MI	
Jackson, MS	.9354
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	.7916
Madison, TN	
Jacksonville, FL	.9481
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	.7966
Onslow, NC	
Janesville-Beloit, WI	.9422
Rock, WI	
Jersey City, NJ	1.1108
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA	.8617
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	.9526
Cambria, PA	
Somerset, PA	
Joliet, IL	1.1253
Grundy, IL	
Will, IL	
Joplin, MO	.9202
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.2341
Kalamazoo, MI	
Kankakee, IL	.9510
Kankakee, IL	
Kansas City, KS-MO	1.0660
Johnson, KS	
Leavenworth, KS	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	1.0875
Kenosha, WI	
Killeen-Temple, TX	.8849
Bell, TX	
Coryell, TX	
Knoxville, TN	.8996
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	.9870
Howard, IN	
Tipton, IN	
LaCrosse, WI	1.0167
LaCrosse, WI	
Lafayette, LA	1.0114
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	.9163
Tippecanoe, IN	
Lake Charles, LA	1.0036
Calcasieu, LA	
Lake County, IL	1.1637
Lake, IL	
Lakeland-Winter Haven, FL	.8851
Polk, FL	
Lancaster, PA	1.0396
Lancaster, PA	
Lansing-East Lansing, MI	1.0769
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	.8163
Webb, TX	
Las Cruces, NM	.8767
Dona Ana, NM	
Las Vegas, NV	1.1254
Clark, NV	
Lawrence, KS	1.0180
Douglas, KS	
Lawton, OK	.9469
Comanche, OK	
Lewiston-Auburn, ME	.9426
Androscoggin, ME	
Lexington-Fayette, KY	.9873
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	.9866
Allen, OH	
Auglaize, OH	
Lincoln, NE	.9710
Lancaster, NE	
Little Rock-North Little Rock, AR	1.1135
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	.8410

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	1.0280
Lorain, OH	
Los Angeles-Long Beach, CA	1.3290
Los Angeles, CA	
Louisville, KY-IN	1.0081
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	1.0128
Lubbock, TX	
Lynchburg, VA	.9215
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	.9325
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0902
Dane, WI	
Manchester-Nashua, NH	.9724
Hillsborough, NH	
Mansfield, OH	.9919
Richland, OH	
Mayaguez, PR	[1].5732
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	.8105
Hidalgo, TX	
Medford, OR	1.0356
Jackson, OR	
Melbourne, Titusville, FL	.9378
Brevard, FL	
Memphis, TN-AR-MS	1.0494
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Merced, CA	1.2134
Merced, CA	
Miami-Hialeah, FL	1.0703
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0349
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.1305
Midland, TX	
Milwaukee, WI	1.1411
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
Minneapolis-St. Paul, MN-WI	1.1772
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	.8927
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.2103
Stanislaus, CA	
Monmouth-Ocean, NJ	.9924
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	.9343
Ouachita, LA	
Montgomery, AL	.8876
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	1.0065
Delaware, IN	
Muskegon, MI	.9912
Muskegon, MI	
Naples, FL	1.0448
Collier, FL	
Nashville, TN	.9414
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.3399
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	.9795
Bristol, MA	
New Haven-Waterbury-Meriden, CT	1.1276
New Haven, CT	
New London-Norwich, CT	1.1103
New London, CT	
New Orleans, LA	.9344
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
New York, NY	1.3809
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
Newark, NJ	1.1404
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	.8963
Niagara, NY	
Norfolk-Virginia Beach-Newport News, VA	.9692
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
Oakland, CA	1.4893
Alameda, CA	
Contra Costa, CA	
Ocala, FL	.8735
Marion, FL	
Odessa, TX	.9619
Ector, TX	
Oklahoma City, OK	1.0930
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.0787
Thurston, WA	
Omaha, NE-IA	1.0509
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange County, NY	.9299
Orange, NY	
Orlando, FL	1.0188
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	.8243
Daviess, KY	
Oxnard-Ventura, CA	1.2851
Ventura, CA	
Panama City, FL	.8354
Bay, FL	
Parkersburg-Marietta, WV-OH	.9121
Washington, OH	
Wood, WV	
Pascagoula, MS	.9678
Jackson, MS	
Pensacola, FL	.8742
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	1.0584
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA-NJ	1.1783
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0801
Maricopa, AZ	
Pine Bluff, AR	.8009
Jefferson, AR	
Pittsburgh, PA	1.1011
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0246
Berkshire, MA	
Ponce, PR	[1].6935
Juana Diaz, PR	
Ponce, PR	
Portland, ME	1.0114
Cumberland, ME	
Portland, OR	1.2074
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	.9373

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0052
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0553
Bristol, RI	
Kent, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	.9858
Utah, UT	
Pueblo, CO	1.1210
Pueblo, CO	
Racine, WI	1.0002
Racine, WI	
Raleigh-Durham, NC	.9720
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	.9623
Pennington, SD	
Reading, PA	1.0248
Berks, PA	
Redding, CA	1.2396
Shasta, CA	
Reno, NV	1.1839
Washoe, NV	
Richland-Kennewick, WA	1.0256
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	.9564
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.2517
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	.8997
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0284
Olmsted, MN	
Rochester, NY	1.0226
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	1.1354
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2969
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.1070
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	1.0018

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	.9487
Buchanan, MO	
St. Louis, MO-IL	1.0827
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Sullivan City, MO	
Salem, OR	1.0971
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2571
Monterey, CA	
Salt Lake City-Ogden, UT	1.0354
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	.8719
Tom Green, TX	
San Antonio, TX	.8943
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.3104
San Diego, CA	
San Francisco, CA	1.6517
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4805
Santa Clara, CA	
San Juan, PR	[1] .6197
Barcelona, PR	
Bayoman, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1822
Santa Barbara, CA	
Santa Cruz, CA	1.2432
Santa Cruz, CA	
Santa Fe, NM	.9809
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.3112
Sonoma, CA	
Sarasota, FL	.9639
Sarasota, FL	
Savannah, GA	.8917

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	.9982
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.1579
King, WA	
Snohomish, WA	
Sharon, PA	.9757
Mercer, PA	
Sheboygan, WI	.9885
Sheboygan, WI	
Sherman-Denison, TX	.8619
Grayson, TX	
Shreveport, LA	.9613
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	1.0062
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	1.0211
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0087
St. Joseph, IN	
Spokane, WA	1.1559
Spokane, WA	
Springfield, IL	1.0664
Menard, IL	
Sangamon, IL	
Springfield, MO	.9863
Christian, MO	
Greene, MO	
Springfield, MA	1.0060
Hampden, MA	
Hampshire, MA	
State College, PA	1.0772
Centre, PA	
Steubenville-Weirton, OH-WV	.9655
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.2871
San Joaquin, CA	
Syracuse, NY	1.0301
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.1052
Pierce, WA	
Tallahassee, FL	.9509
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	.9830
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	.8456
Clay, IN	
Vigo, IN	
Texarkana-TX-Texarkana, AR	.8650
Miller, AR	
Bowie, TX	
Toledo, OH	1.2267
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	1.0632
Shawnee, KS	
Trenton, NJ	1.0317
Mercer, NJ	
Tucson, AZ	1.0090
Pima, AZ	
Tulsa, OK	1.0131

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	1.0172
Tuscaloosa, AL	
Tyler, TX	1.0035
Smith, TX	
Utica-Rome, NY	.8840
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3397
Napa, CA	
Solano, CA	
Vancouver, WA	1.1659
Clark, WA	
Victoria, TX	.8205
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	.9929
Cumberland, NJ	
Visalia/Tulare-Porterville, CA	1.0643
Tulare, CA	
Waco, TX	.9117
McLennan, TX	
Washington, DC-MD-VA	.1965
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	.9993
Black Hawk, IA	
Bremer, IA	
Wausau, WI	.9871
Marathon, MI	
West Palm Beach-Boca Raton-Delray Beach, FL	.9972
Palm Beach, FL	
Wheeling, WV-OH	.9771
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	1.1589
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX	.8776
Wichita, TX	
Williamsport, PA	.9048
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0588
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	.9591
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0094
Worcester, MA	
Yakima, WA	1.0389
Yakima, WA	
York, PA	.9853
Adams, PA	
York, PA	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Youngstown-Warren, OH	1.0480
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0460
Sutter, CA	
Yuba, CA	

[1] Approximate value for area.

TABLE IIIb.—WAGE INDEX FOR RURAL AREAS

Non-urban area	Wage index
Alabama	.7455
Alaska	1.4989
Arizona	.9323
Arkansas	.7703
California	1.1385
Colorado	.9326
Connecticut	1.0880
Delaware	.8645
Florida	.8815
Georgia	.7779
Hawaii	1.0157
Idaho	.9130
Illinois	.8917
Indiana	.8685
Iowa	.8719
Kansas	.8481
Kentucky	.8036
Louisiana	.8605
Maine	.8701
Maryland	.8773
Massachusetts	1.0548
Michigan	.9589
Minnesota	.8788
Mississippi	.7705
Missouri	.8325
Montana	.9154
Nebraska	.8310
Nevada	1.0799
New Hampshire	.9234
New Jersey [2]	
New Mexico	.9213
New York	.8730
North Carolina	.8130
North Dakota	.9061
Ohio	.9100
Oklahoma	.8462
Oregon	1.0782
Pennsylvania	.9427
Puerto Rico	[1].5736
Rhode Island	.9553
South Carolina	.7827
South Dakota	.8263
Tennessee	.7733
Texas	.8180
Utah	.9505
Vermont	.8888
Virginia	.8194
Virgin Islands	[1] 1.0000
Washington	1.0273
West Virginia	.8816
Wisconsin	.8995
Wyoming	.9745

[1] Approximate value for area.
[2] All counties within the State are classified urban.

TABLE IV—COST REPORTING YEAR ADJUSTMENT FACTORS [1]

If the HHA cost reporting period begins:	The adjustment factor is—
Aug. 1, 1988	1.0042
Sept. 1, 1988	1.0085
Oct. 1, 1988	1.0126
Nov. 1, 1988	1.0169
Dec. 1, 1988	1.0211
Jan. 1, 1989	1.0254
Feb. 1, 1989	1.0303
Mar. 1, 1989	1.0348
Apr. 1, 1989	1.0398
May 1, 1989	1.0446
June 1, 1989	1.0496

[1] Based on compounded projected market basket inflation rates of 5.1 percent for 1989 and 5.8 percent for 1990.
These adjustment factors are subject to change based on later estimates of cost increases.

VIII. Regulatory Impact Anaylsis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any notice that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all HHAs are treated as small entities.

Based on the date available to us, we estimate the new HHA cost limits will increase Medicare expenditures beyond current Medicare expenditures for HHA services as follows:

Fiscal year	Amount in millions [1]
FY 1988 [2]	2.3
FY 1989	60
FY 1990	90
FY 1991	100
FY 1992	110
FY 1993	120

[1] FYs 1989–1993 figures are rounded to the nearest ten million.
[2] Since the limits are effective July 1, 1988, expenditures for FY 1988 are limited to July 1, 1988 through September 30, 1988.

As a result of the above cost estimates, this notice is a major rule under E.O. 12291, and a final regulatory impact analysis is required. Additionally, these HHA cost limits will result in a significant beneficial economic impact upon HHAs. Therefore, we have prepared a voluntary regulatory flexibility analysis. The discussion below, in combination with the other sections of this notice, constitutes a combined final regulatory impact analysis and final regulatory flexibility analysis consistent with E.O. 12291 and the RFA.

Section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area. We have no data to indicate that small rural hospitals will be adversely impacted. Therefore, we are not preparing a rural impact statement since we have determined, and the Secretary certifies that this notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

B. Affected Entities

The HHA industry has experienced considerable growth. This is the result of several factors, including growth in persons served and an increase in charge per visit. As of January 1987, there were 5,953 home health agencies. Of that number, approximately 39 percent (2,310) were nonprofit; 34 percent (2,036) were proprietary; and 27 percent (1,601) were government-controlled.

We do not have sufficient data to predict exactly which HHAs would be most affected by this notice nor the magnitude of the impact upon individual HHAs. However, it is certain that individual HHAs would be affected to greater or lesser degree depending upon the extent to which their total reimbursement is derived from Medicare.

C. Alternatives Considered

An alternative we considered was maintaining the current limits. We decided that this would be unfair to both beneficiaries and HHAs, because we have data that indicate an increase in costs. Since section 1861(v)(1)(A) of the Act requires that we pay HHAs based on reasonable costs, we believe that it is only equitable to pay HHAs costs based on the most recent data available. We believe that this will benefit Medicare beneficiaries in that there is more assurance that HHAs will provide quality of care if they are being paid at a rate that reflects current costs.

We have retained the July 1, 1987 schedule of limits methodology. For example, this schedule of limits, just like the current schedule, was calculated using 112 percent of the mean cost of freestanding HHAs. This level was required by section 1861(v)(1)(L)(i) of the Act. These limits are based on the latest cost data available at this time and are adjusted by the latest estimates in the market basket index.

However, the July 1, 1988 schedule of limits updates the current schedule in two ways:

- We are using data from HHA cost reports for cost reporting periods beginning on or after October 1, 1985 rather than for cost reporting periods beginning or or after October 1, 1983.
- Because the new schedule of limits uses post-October 1, 1985 data, we are discontinuing use of the separate add-on for billing and verification procedures that was used in setting the limits for the July 1, 1986 and July 1, 1987 schedules. Since the costs attributed to billing and verification are already reflected in the data used to establish the 1988 cost limits, a separate add-on is not necessary.

D. Conclusion

We believe that this increase in cost limits will promote better quality care by enabling HHAs to meet the increases in the cost per unit of care that they have experienced. At the same time, we believe these cost limits represent the costs involved in providing HHA services and are reasonable.

IX. Other Required Information

A. Waiver of Prior Public Comment Period

We ordinarily publish a proposed notice in the **Federal Register** and provide a period for public comment, or issue this notice with a 30-day delayed effective date. However, we may waive these procedures if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. When we do so, we incorporate an explanation of our findings in the notice to be issued.

We do not believe these limits effectuate significant methodological changes to the current HHA cost limits. The use of post-October 1, 1985 cost report data is not a methodological change but is simply an update to the cost limits, enabling HHA's to have those limits based upon the most recent data available. The discontinuation of the billing and verification add-on is a logical outgrowth of the utilization of post-October 1, 1985 cost report data. Because the post-October 1, 1985 cost report data have billing and verification costs built in, retention of the add-on in these limits would result in double payment for these costs. We therefore do not believe that discontinuation of the add-on is a significant methodological change requiring prior notice and comment. Indeed, the public interest concerns incumbent in effectuating this cost limit update as soon as possible weighs heavily against delaying publication in order to institute a prior public comment period.

Section 4039(g) of Pub. L. 100–203 provides that we may issue regulations to implement the amendments made by Subtitle A of Pub. L. 100–203 on an interim or other basis as may be necessary. As originally enacted, the statute provided that the amendments made by section 4026(a) are generally effective on July 1, 1988. We were unable to compile the 1985 data in the time to develop the new cost limits, propose them for public comment, and have them in effect by July 1, 1988. Therefore, we decided to waive publication of a proposed notice and to issue this notice to become effective July 1, 1988.

However, before we were able to publish this notice and implement section 4026(a) of Pub. L. 100–203, Pub. L. 100–360 was enacted on July 1, 1988. As discussed in detail in section II.C. of this notice, section 411(d)(5) of Pub. L. 100–360 extended the effective date of the amendments made by section 4026(a) of Pub. L. 100–203 to July 1, 1989. Therefore, we are no longer required to implement those amendments through this notice. The changes effectuated by Pub. L. 100–360 caused us to significantly modify the July 1, 1988 schedule of limits originally prepared for publication. Because there is not now adequate time to publish a proposed notice of this schedule of limits and solicit public comment and then publish a final notice before July 1, 1988, we find good cause to waive the notice and comment procedures because they would be impractical and contrary to the public interest attached to updating these limits. Nonetheless, we are

providing a 60-day comment period as indicated at the beginning of this notice.

Because of the large number of items of correspondence we normally receive, we are not able to acknowledge or respond to them individually. However, in preparing the final notice, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble of that notice.

B. Waiver of 30-Day Delay in Effective Date

We normally provide a delay of 30 days in the effective date of all final notices. However, we believe that, in this case, the public interest requires that the schedule of limits set forth in this notice take effect on July 1, 1988.

Because one-third of the participating HHAs begin their cost reporting periods on July 1, a delay in the effective date would mean that these cost limits would not apply to one-third of all HHAs and they would continue to be subject to the schedule of limits that was effective for their cost reporting period beginning on July 1, 1987. Since the shedule of limits set forth in this notice will result overall in substantially higher cost limits for all HHAs, failure to apply the revised limits to the large number of HHAs, whose cost reporting periods begin July 1, 1988 would be disadvantageous to those HHAs and not in their best interest. Therefore, we find good cause to waive the 30-day delay in effective date.

C. Paperwork Reduction Act

This notice does not impose information collection requirements. Cosequently, it does not need to be reviewed by EOMB under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare Hospital Insurance)

Dated: June 30, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

August 4, 1988.

Otis R. Bowen,

Secretary.

Addendum: Comparison of HHA Wage Index and Hospital Wage Index

This addendum sets forth a list of the wage index values for both the HCFA hospital wage and the HHA wage index and the percentage change between the two. See section II.c. of the notice for a detailed explanation of the development of the HHA wage index. This comparison is supplied for information only. The HHA cost limits in this notice are based on the values entered in the Hospital Wage Index column.

URBAN AREAS

	Hospital wage index	HHA wage index	Percentage change
Abilene, TX	.9003	.9819	9.064
Aguadilla, PR	.5581	.4424	−20.731
Akron, OH	1.108	1.1071	−.081
Albany, GA	.8183	.8031	−1.858
Albany-Schenectady-Troy, NY	.9248	1.0486	13.387
Albuquerque, NM	1.1078	[1] 1.0000	−9.731
Alexandria, LA	.9169	[1] 1.0000	9.063
Allentown-Bethlehem, PA-NJ	1.0454	1.0436	−.172
Altoona, PA	1.0022	.8588	−14.309
Amarillo, TX	.9595	.5334	−44.409
Anaheim-Santa Ana, CA	1.2616	1.3322	5.596
Anchorage, AK	1.5849	1.4995	−5.388
Anderson, IN	.9882	.6220	−37.057
Anderson, SC	.8369	[1] 1.0000	19.489
Ann Arbor, MI	1.2607	1.1589	−8.075
Anniston, AL	.8519	.7767	−8.827
Appleton-Oshkosh-Neenah, WI	1.0666	.8308	−22.108
Arecibo, PR	.6081	.4636	−23.763
Asheville, NC	.8844	.8506	−3.822
Athens, GA	.8179	[1] 1.0000	22.264
Atlanta, GA	.9663	1.0994	13.774
Atlantic City, NJ	1.0566	1.2054	14.083
Augusta, GA-SC	.9602	1.1253	17.194
Aurora-Elgin, IL	1.1015	1.1406	3.550
Austin, TX	1.1177	1.1385	1.861
Bakersfield, CA	1.2059	1.1466	−4.917
Baltimore, MD	1.115	1.1877	6.520
Bangor, ME	.9285	[1] 1.0000	7.701
Baton Rouge, LA	.9825	1.0008	1.863
Battle Creek, MI	1.0302	.8628	−16.249
Beaumont-Port Arthur, TX	1.0082	.9006	−10.672
Beaver County, PA	1.0919	[1] 1.0000	−8.417
Bellingham, WA	1.1471	.7620	−33.572
Benton Harbor, MI	.8911	.6500	−27.056
Bergen-Passaic, NY	1.0748	.9976	−7.183
Billings, MT	1.0226	1.2266	19.949
Biloxi-Gulfport, MS	.8489	.8876	.559
Binghamton, NY	.9558	.8911	−6.769
Birmingham, AL	.9663	.9457	−2.132
Bismarck, ND	.9943	.6945	−30.152
Bloomington, IN	.9899	.5481	−44.631
Bloomington-Normal, IL	.9844	[1] 1.0000	1.585
Boise City, ID	1.0584	1.1701	10.554
Boston-Lowell-Brockton-Law-Sal, MA	1.1560	1.1093	−4.040
Boulder-Longmont, CO	1.1326	.7851	−30.682
Bradenton, FL	.9196	.9647	4.904
Brazoria, TX	.8742	1.3040	49.165
Bremerton, WA	.9813	1.0057	2.486

URBAN AREAS—Continued

	Hospital wage index	HHA wage index	Percentage change
Bridgeport-Stamford-Norw-Danb, CT	1.1846	1.0009	−15.507
Brownsville-Harlingen, TX	.8977	[1] 1.0000	11.396
Bryan-College Station, TX	.9569	1.0420	8.893
Buffalo, NY	1.0687	1.1939	11.715
Burlington, NC	.7926	1.0478	32.198
Burlington, VT	1.0131	.8724	−13.888
Caguas, PR	.6279	.5292	−15.719
Canton, OH	1.0080	1.2598	24.980
Casper, WY	1.1063	.8106	−26.729
Cedar Rapids, IA	1.0174	.6553	−35.591
Champaign-Urbana-Rantoul, IL	.9965	.8981	−9.875
Charleston, SC	.8912	.8758	−1.729
Charleston, WV	1.0482	1.0265	−2.070
Charlotte-Gastonia-RK Hill, NC-SC	.8991	1.0953	21.822
Charlottesville, VA	.9345	.7848	−16.019
Chattanooga, TN-GA	1.0041	.8200	−18.335
Cheyenne, WY	.9702	[1] 1.0000	3.072
Chicago, IL	1.2351	1.2155	−1.587
Chico, CA	1.2463	1.0539	−15.438
Cincinnati, OH-KY-IN	1.1050	1.0940	−.995
Clarksville-Hopkinsville, TN-KY	.8183	1.8911	131.101
Cleveland, OH	1.1565	1.1128	−3.779
Colorado Springs, CO	1.0439	.7899	−24.332
Columbia, MO	1.1022	.4563	−58.601
Columbia, SC	.9168	1.0958	19.524
Columbus, GA-AL	.7929	.5784	−27.053
Columbus, OH	.9684	.9921	2.447
Corpus Christi, TX	.9899	.4008	−59.511
Cumberland, MD-WV	.8996	.8622	−4.157
Dallas, TX	1.0733	1.1312	5.395
Danville, VA	.8087	[1] 1.0000	23.655
Davenport-Rock Island-Moline, IA-IL	1.0660	.8806	−17.392
Dayton-Springfield, OH	1.0939	.8794	−19.609
Daytona Beach, FL	.9139	1.3512	47.850
Decatur, IL	.9592	.9293	−3.117
Denver, CO	1.2865	1.2726	−1.080
Des Moines, IA	1.0556	1.1397	7.967
Detroit, MI	1.1725	1.2380	5.586
Dothan, AL	.8457	.6711	−20.646
Dubuque, IA	1.0590	.7442	−29.726
Duluth, MN-WI	.9930	1.9190	93.253
Eau Claire, WI	.9498	.9963	4.896
El Paso, TX	.9437	1.3638	44.516
Elkhart-Goshen, IN	.9650	.8789	−8.922
Elmira, NY	.9741	1.4456	48.404
Enid, OK	.9626	1.2103	25.732
Erie, PA	.9991	.9386	−6.055
Eugene-Springfield, OR	1.1163	[1] 1.0000	−10.418
Evansville, IN-KY	1.0217	.8730	−14.554
Fargo-Moorhead, ND-MN	1.0644	.9510	−10.654
Fayetteville, NC	.8330	[1] 1.2318	47.875
Fayetteville-Springdale, AR	.8078	1.0000	23.793
Flint, MI	1.2104	1.0237	−15.425
Florence, AL	.7889	.7549	−4.310
Florence, SC	.7687	1.0000	30.107
Fort Collins-Loveland, CO	1.0846	[1] .9529	−12.143
Fort Lauderdale-Hollywood-Pompano, FL	1.1249	1.0445	−7.147
Fort Myers-Cape Coral, FL	.9533	1.2828	34.564
Fort Pierce, FL	1.0215	1.1442	12.012
Fort Smith, AR-OK	.9243	.7904	−14.487
Fort Walton Beach, FL	.8751	.8843	1.051
Fort Wayne, IN	.9568	.8132	−15.008
Fort Worth-Arlington, TX	.9998	1.8450	84.537
Fresno, CA	1.1490	1.1648	1.375
Gadsden, AL	.8777	[1] 1.0000	13.934
Gainesville, FL	.9642	1.2393	28.500
Galveston-Texas City, TX	1.1412	1.1673	2.287
Gary-Hammond, IN	1.0978	.9318	−15.121
Glen Falls, NY	.9607	.9777	1.770
Grand Forks, ND	.9871	[1] 1.0000	1.307
Grand Rapids, MI	1.0663	.8459	−20.670
Great Falls, MT	1.0722	[1] 1.0000	−6.734
Greeley, CO	1.0763	1.0925	1.505
Green Bay, WI	1.0326	.8458	−18.090
Greensboro-Winston-Salem-High Pt, NC	.9388	.9332	−0.597
Greenville-Spartanburg, SC	.9130	1.0740	17.634
Hagerstown, MD	.9585	1.0601	10.600
Hamilton-Middletown, OH	1.0214	1.2162	19.072
Harrisburg-Lebanon-Carlisle, PA	.9868	.9976	1.094

URBAN AREAS—Continued

	Hospital wage index	HHA wage index	Percentage change
Hartford-Middletown-New Britain, CT	1.1486	.9989	−13.033
Hickory, NC	.8982	.8499	−5.377
Honolulu, HI	1.2022	.6814	−43.321
Houma-Thibodaux, LA	.9229	1.0548	14.292
Houston, TX	1.0668	1.1297	5.896
Huntington-Ashland, WV-KY-OH	.9509	.7529	−20.822
Huntsville, AL	.8661	1.1198	29.292
Indianapolis, IN	1.0594	.9765	−7.825
Iowa City, IA	1.3084	1.0510	−19.673
Jackson, MI	1.0206	[1] 1.0000	−2.018
Jackson, MS	.9354	.8210	−12.230
Jackson, TN	.7916	.8488	7.226
Jacksonville, FL	.9481	.9138	−3.618
Jacksonville, NC	.7966	.7731	−2.950
Janesville-Beloit, WI	.9422	.5938	−36.977
Jersey City, NJ	1.1108	1.4256	28.340
Johnson City-Kingsport-Bristol, TN-VA	.8617	.8955	3.922
Johnstown, PA	.9526	.7873	−17.353
Joliet, IL	1.1253	.9399	−16.476
Joplin, MO	.9202	[1] 1.0000	8.672
Kalamazoo, MI	1.2341	1.2449	.875
Kankakee, IL	.9510	[1] 1.0000	5.152
Kansas City, KS-MO	1.0660	1.0639	−.197
Kenosha, WI	1.0875	.8799	−19.090
Killeen-Temple, TX	.8849	.8355	−5.583
Knoxville, TN	.8996	.8714	−3.135
Kokomo, IN	.9870	.8111	−17.822
Lacrosse, WI	1.0167	.9805	−3.561
Lafayette, LA	1.0114	.9806	−3.045
Lafayette, IN	.9163	.9641	5.217
Lake Charles, LA	1.0036	1.1550	15.086
Lake County, IL	1.1637	1.0216	−12.211
Lakeland-Winter Haven, FL	.8851	1.1783	33.126
Lancaster, PA	1.0396	.8729	−16.035
Lansing-East Lansing, MI	1.0769	1.0499	−2.507
Laredo, TX	.8163	1.2725	55.886
Las Cruces, NM	.8767	.8036	−8.338
Las Vegas, NV	1.1254	1.3436	19.389
Lawrence, KS	1.0180	[1] 1.0000	−1.768
Lawton, OK	.9469	[1] 1.0000	5.608
Lewiston-Auburn, ME	.9426	.5798	−38.489
Lexington-Fayette, KY	.9873	.9449	−4.295
Lima, OH	.9866	.9952	.872
Lincoln, NE	.9710	1.1719	20.690
Little Rock-North Little Rock, AR	1.1135	.8180	−26.538
Longview-Marshall, TX	.8410	.8851	5.244
Lorain-Elyria, OH	1.0280	[1] 1.0000	−2.724
Los Angeles-Long Beach, CA	1.3290	1.2622	−5.026
Louisville, KY-IN	1.0081	.9494	−5.823
Lubbock, TX	1.0128	.8299	−18.059
Lynchburg, VA	.9215	1.1262	22.214
Macon-Warner Robins, GA	.9325	.7317	−21.534
Madison, WI	1.0902	.9452	−13.300
Manchaster-Nashua, NH	.9724	.9903	1.841
Mansfield, OH	.9919	1.6670	68.061
Mayaguez, PR	.5732	.5774	.733
McAllen-Edinburg-Mission, TX	.8105	.8726	7.662
Medford, OR	1.0356	.6008	−41.985
Melbourne-Titusville, FL	.9378	1.1616	23.864
Memphis, TN-AR-MS	1.0494	1.0496	.019
Merced, CA	1.2134	1.0844	−10.631
Miami-Hialeah, FL	1.0703	1.1097	3.681
Middlesex-Somerset-Hunterdon, NJ	1.0349	1.1600	12.088
Midland, TX	1.1305	.9013	−20.274
Milwaukee, WI	1.1411	.9860	−13.592
Minneapolis-St. Paul, MN-WI	1.1772	1.0898	−7.424
Mobile, AL	.8927	.7477	−16.243
Modesto, CA	1.2103	.8824	−27.092
Monmouth-Ocean, NJ	.9924	1.0006	.826
Monroe, LA	.9343	[1] 1.0000	7.032
Montgomery, AL	.8876	.8838	.428
Muncie, IN	1.0065	1.2825	27.422
Muskegon, MI	.9912	.7952	−19.774
Naples, FI	1.0448	1.1436	9.456
Nashville, TN	.9414	1.0660	13.236
Nassau-Suffolk, NY	1.3399	1.4331	6.956
New Bedford-Fall River-Attleboro, MA	.9705	1.5219	55.375
New Haven-Waterbury-Meriden, Ct	1.1276	1.0689	−5.206
New London-Norwich, CT	1.1103	.8934	−19.535

URBAN AREAS—Continued

	Hospital wage index	HHA wage index	Percentage change
New Orleans, LA	.9344	1.1447	22.506
New York, NY	1.3809	1.2206	−11.608
Newark, NJ	1.1404	1.0124	−11.224
Niagara Falls, NY	.9803	1.9088	112.964
Norfolk-VA Beach-Newport News, VA	.9692	1.1429	17.922
Oakland, CA	1.4893	1.2496	−16.095
Ocala, FL	.8735	.9020	3.263
Odessa, TX	.9619	1.0436	8.494
Oklahoma City, OK	1.0930	1.2192	11.546
Olympia, WA	1.0787	1.3022	20.719
Omaha, NE-IA	1.0509	.8522	−18.908
Orange County, NY	.9299	1.0055	8.130
Orlando, FL	1.0188	.9119	−10.493
Owensboro, KY	.8243	.6197	−24.821
Oxnard-Ventura, CA	1.2851	1.3521	5.214
Panama City, FL	.8354	.7240	−13.335
Parkersburg-Marietta, WV-OH	.9121	.8122	−10.953
Pascagoula, MS	.9678	.8850	−8.555
Pensacola, FL	.8742	.9231	5.594
Peoria, IL	1.0584	0.9618	−9.127
Philadelphia, PA-NJ	1.1783	1.0017	−14.988
Phoenix, AZ	1.0801	1.6458	52.375
Pine Bluff, AR	.8009	.4108	−48.708
Pittsburgh, PA	1.1011	1.0572	−3.987
Pittsfield, MA	1.0246	.8531	−16.738
Ponce, PR	.6935	4674	−32.603
Portland, ME	1.0114	.6627	−34.477
Portland, OR	1.2074	.9327	−22.751
Portsmouth-Dover-Rochester, NH	.9373	1.0091	7.660
Poughkeepsie, NY	1.0052	1.3301	32.322
Providence-Pawtucket-Woonsocket, RI	1.0553	1.0090	−4.387
Provo-Orem, UT	.9858	[1] 1.000	1.440
Pueblo, CO	1.1210	.7514	−32.971
Racine, WI	1.0002	8273	−17.287
Raleigh-Durham, NC	.9720	1.2535	28.961
Rapid City, SD	.9623	[1] 1.000	3.918
Reading, PA	1.0248	.9077	−11.427
Redding, CA	1.2396	[1] 1.000	−19.329
Reno, NV	1.1839	1.3137	10.964
Richland-Kennewick, WA	1.0256	1.1502	12.149
Richmond-Petersburg, VA	.9564	.8273	−13.499
Riverside-San Bernardino, CA	1.2517	1.1440	−8.604
Roanoke, VA	.8997	.6029	−32.989
Rochester, MN	1.0284	1.0979	6.758
Rochester, NY	1.0226	.8844	−13.515
Rockford, IL	1.1354	.9800	−13.687
Sacramento, CA	1.2969	1.5663	20.773
Saginaw-Bay City-Midland, MI	1.1070	1.0578	−4.444
St Cloud, MN	1.0018	.8148	−18.666
St Joseph, MO	.9487	.5200	−45.188
St Louis MO-IL	1.0827	1.1081	2.346
Salem, OR	1.0971	[1] 1.000	−8.851
Salinas-Seaside-Monterey, CA	1.2571	1.7188	36.727
Salt Lake City, UT	1.0354	1.3174	27.236
San Angelo, TX	.8719	[1] 1.000	14.692
San Antonio, TX	.8943	.9323	4.249
San Diego, CA	1.3104	1.1176	−14.713
San Francisco, CA	1.6517	.8760	−46.964
San Jose, CA	1.4805	1.2395	−16.278
San Juan, PR	.6197	.6814	9.956
Santa Barbara-Santa Maria-Lompoc, CA	1.1822	1.1769	−0.448
Santa Cruz, CA	1.2432	[1] 1.000	−19.562
Santa FE, NM	.9809	[1]1.0000	1.947
Santa Rosa-Petaluma, CA	1.3112	1.2485	−4.782
Sarasota, FL	.9639	.8319	−13.694
Savannah, GA	.8917	.7110	−20.265
Scranton-Wilkes Barre, PA	.9982	1.0033	.511
Seattle, WA	1.1579	1.1937	3.092
Sharon, PA	.9757	[1]1.0000	2.491
Sheboygan, WI	.9885	.7970	−19.373
Sherman-Denison, TX	.8619	.7643	−11.324
Shreveport, LA	.9613	.9272	−3.547
Sioux City, IA-NE	1.0062	.9285	−7.722
Sioux Falls, SD	1.0211	1.0176	−.343
South Bend-Mishawaka, IN	1.0087	.7689	−23.773
Spokane, WA	1.1559	1.1834	−2.379
Springfield, IL	1.0664	.9459	−11.300
Springfield, MO	.9863	.7584	−23.107
Springfield, MA	1.0060	.8808	−12.445

URBAN AREAS—Continued

	Hospital wage index	HHA wage index	Percentage change
State College, PA	1.0772	.8598	−20.182
Steubenville-Weirton, OH-WV	.9655	1.2196	26.318
Stockton, CA	1.2871	.6720	−47.790
Syracuse, NY	1.0301	.8904	−13.562
Tacoma, WA	1.1052	1.2701	14.920
Tallahassee, FL	.9509	1.2652	33.053
Tampa-St. Petersburg-Clearwater, FL	.9830	.9332	−5.066
Terre Haute, IN	.8456	.4338	−48.699
Texarkana, AR-TX	.8650	1.5701	81.514
Toledo, OH	1.2267	.8926	−27.236
Topeka, KS	1.0632	1.2829	20.664
Trenton, NJ	1.0317	1.9457	88.592
Tucson, AZ	1.0090	1.5835	56.938
Tulsa, OK	1.0131	.7707	−23.927
Tuscaloosa, AL	1.0172	.8375	−17.666
Tyler, TX	1.0035	1.3169	31.231
Utica-Rome, NY	.8840	.8693	−1.663
Vallejo-Fairfield-Napa, CA	1.3397	1.0103	−24.588
Vancouver, WA	1.1659	1.0576	−.289
Victoria, TX	.8205	.5439	−33.711
Vineland-Millville-Bridgeton, NJ	.9929	1.0241	3.142
Visalia-Tulare-Porterville, CA	1.0643	[1]1.0000	−6.042
Waco, TX	.9117	.8944	−1.898
Washington, DC-MD-VA	1.1965	1.2680	5.976
Waterloo-Cedar Falls, IA	.9993	.8201	−17.933
Wausau, WI	.9871	[1]1.0000	1.307
West Palm Beach-Boca Raton-Delray, CA	.9972	.8764	−12.114
Wheeling, WV-OH	.9771	.8648	−11.493
Wichita, KS	1.1598	.8952	−22.814
Wichita Falls, Tx	.8776	.8600	−2.005
Williamsport, PA	.9048	.7859	−13.141
Wilmington, DE-NJ-MD	1.0588	.9068	−14.356
Wilmington, NC	.9591	.7546	−21.322
Worcester-Fitchburg-Leominster, MA	1.0094	1.0081	−.129
Yakima, WA	1.0389	1.1713	12.744
York PA	.9853	1.0227	3.796
Youngstown-Warren, OH	1.0480	.9425	−10.067
Yuba City, CA	1.0460	[1]1.0000	−4.398

[1] Areas for which no wage data were reported.

RURAL AREAS

	Hospital wage index	HHA wage index	Percentage change
Alabama	0.7466	0.7147	−4.273
Alaska	1.4989	1.2509	−16.545
Arizona	.9323	1.413	51.561
Arkansas	.7703	.4234	−45.034
California	1.1385	1.0903	−4.234
Colorado	.9326	1.0553	13.157
Connecticut	1.0880	.9544	−12.279
Delaware	.8645	.9031	4.465
Florida	.8815	.8951	1.543
Georgia	.7779	.7881	1.311
Hawaii	1.0157	.9362	−7.827
Idaho	.9130	1.0609	16.199
Illinois	.8917	.8389	−5.921
Indiana	.8685	.7977	−8.152
Iowa	.8719	.7783	−10.735
Kansas	.8481	.8175	−3.608
Kentucky	.8036	.8331	3.671
Louisiana	.8605	.8115	−5.694
Maine	.8701	1.0395	19.469
Maryland	.8773	.8998	2.565
Massachusetts	1.0548	1.1508	9.101
Michigan	.9589	1.007	5.016
Minnesota	.8788	.8624	−1.866
Mississippi	.7705	.8571	11.239
Missouri	.8325	.8869	6.535
Montana	.9154	.9897	8.117
Nebraska	.8310	.6836	−17.738
Nevada	1.0799	1.0064	−6.806
New Hampshire	.9234	.8897	−3.650

RURAL AREAS—Continued

	Hospital wage index	HHA wage index	Percentage change
New Mexico	.9213	.8781	−4.689
New York	.8730	1.0098	15.670
North Carolina	.8130	.8822	8.512
North Dakota	.9061	.7867	−13.177
Ohio	.9100	.9906	8.857
Oklahoma	.8462	.9487	12.113
Oregon	1.0782	1.1002	2.040
Pennsylvania	.9427	.9011	−4.413
Puerto Rico	.5736	.5162	−10.007
Rhode Island	.9553	.8843	−7.432
South Carolina	.9827	.5808	−40.898
South Dakota	.8263	.7192	−12.961
Tennessee	.7733	.9021	16.656
Texas	.8180	.8592	5.037
Utah	.9505	[1] 1.0000	5.208
Vermont	.8888	.8651	−2.667
Virginia	.8194	1.0395	26.861
Washington	1.0273	1.0093	−1.752
West Virginia	.8816	1.0041	13.895
Wisconsin	.8995	.9664	7.437
Wyoming	.9745	.8045	−17.445

[1] Areas for which no wage data were reported.

[FR Doc. 88-23906 Filed 10-17-88; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Division of Research Resources; Meetings of the Subcommittees of the Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of Subcommittee meetings of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health.

These meetings will be open to the public as listed below for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meetings will be closed to the public as listed below for the review, discussion and evaluation of individual grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information

concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Subcommittee: Subcommittee on Primate Research Centers.

Date of Meeting: October 21, 1988.

Place of Meeting: Nendels Inn, Sunset Room, 9900 S.W. Canyon Road, Portland, OR 97225.

Open: 10:30 a.m.–12:00 noon.

Closed: 8:00 a.m.–10:30 a.m.

Name of Subcommittee: Subcommittee on Animal Resources.

Date of Meeting: October 27, 1988.

Place of Meeting: National Institutes of Health, Building 31, Conference Room 4, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 3:00 p.m.–5:00 p.m.

Closed: 8:00 a.m.–3:00 p.m.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 5B55, Bethesda, Maryland 20892, (301) 496–5175, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Amimal Sciences, National Institutes of Health).

Dated: October 6, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–24069 Filed 10–17–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Health Resources and Services Administration; Telecommunications Demonstration Projects; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of October 3, 1988 from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, the Administrator has redelegated the authorities delegated to him under Title IV, Subtitle A, Part 4, section 4094(e) of Pub. L. 100–203, The Omnibus Budget Reconciliation Act of 1987, pertaining to Telecommunications Demonstration Projects to the Director, Office of Rural Health Policy, Health Resources and Services Administration.

Redelegation: This authority may not be redelegated.

Effective Date: This delegation became effective on October 11, 1988.

John H. Kelso,

Acting Administrator, Health Resources and Services Administration.

Date: October 11, 1988.

[FR Doc. 23992 Filed 10–17–88; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Meeting of the California Desert District Advisory Council

Summary

Notice is hereby given, in accordance with Pub. L. 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session on Wednesday, November 2, 1988, from 8 a.m. to 5 p.m., at the Nautical Inn Hotel and Convention Center, 1000 McCulloch Boulevard, Lake Havasu City, AZ.

Agenda items will include: Council review of analysis on 1988 amendments to the California Desert Plan; plan amendment for the boundary adjustment at Death Valley and Joshua Tree National Monuments; updates on the U.S. Navy withdrawal agreement in Imperial County and the U.S. Army proposed expansion of Fort Irwin in San Bernardino County; District ACEC plan progress at Rand Mountain and Afton Canyon; and, discussion of technical review team work.

The following day, Thursday, November 3, the California Desert District Advisory Council will participate in a joint meeting with the Yuma, AZ District and the Las Vegas, NV District Advisory Councils for a one-day discussion and participation in subjects of common interest to the three Advisory Councils.

All District Advisory Council meetings are open to the public, with time allocated for public comments. Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Dr. Loren Lutz, c/o Bureau of Land Management Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507. Written comments are also accepted at the time of the meeting.

For Further Information and Meeting Confirmation: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507 (714) 351–6383.

Date: October 4, 1988.

Wesley T. Chambers,

Acting District Manager.

[FR Doc. 88–24109 Filed 10–17–88; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

Concession Contract Negotiations; Amfac Hotels and Resorts, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Amfac Hotels and Resorts, Inc., authorizing it to continue to provide lodging, food, beverage, merchandise, grocery, service station and related facilities and services for the public at Stovepipe Wells within Death Valley National Monument, California for a period of fifteen (15) years from January 1, 1989 through December 31, 2003.

EFFECTIVE DATE: December 19, 1988.

ADDRESS: Interested parties should contact the Regional Director, Western Region, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contact which expires by limitation of time on December 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (70 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Stanley T. Albright,

Regional Director, Western Region.

Date: August 9, 1988.

[FR Doc. 88–23978 Filed 10–17–88; 8:45 am]

BILLING CODE 4310–70–M

Concession Permit Negotiations; Cades Cove Riding Stables, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Cades Cove Riding Stables, Inc., authorizing it to continue to provide saddle horse livery, guide service and hayrides for the public at Great Smoky Mountains National Park, Tennessee, for a period of five (5) years from January 1, 1989, through December 31, 1993.

EFFECTIVE DATE: December 19, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR, 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

C.W. Ogle,

Acting Regional Director, Southeast Region.

Date August 16, 1988.

[FR Doc. 88-23975 Filed 10-17-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiations; Cades Cove Campground Store, Inc.

August 17, 1988.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Cades Cove Campground Store, Inc., authorizing it to continue to provide a campground store and bicycle rental facilities and services for the public at Great Smoky Mountain National Park, Tennessee, for a period of five (5) years from January 1, 1989, through December 31, 1993.

EFFECTIVE DATE: December 19, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the national Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR, 51.5

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Robert M. Baker,

Regional Director, Southeast Region.

Date: August 17, 1988.

[FR Doc. 88-23976 Filed 10-17-88; 8:45 am]

BILLING CODE 4310-70-M

Concession Permit Negotiation, Craftmens Guild of Mississippi, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Craftsmen's Guild of Mississippi, Inc., authorizing it to continue to provide sales, exhibits, workshops and demonstrations of Mississippi crafts for the public at Natchez Trace Parkway for a period of four (4) years from January 1, 1989, through December 31, 1982.

EFFECTIVE DATE: December 19, 1988.

ADDRESS: Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street SW., Atlanta, Georgia 30303, for informaiton as to the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit has been determined to be categorically excluded form the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1988, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR, 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Robert L. Deskins,

Acting Regional Director, Southeast Region.

Date: September 30, 1988.

[FR Doc. 88-23977 Filed 10-17-88; 8:45 am]

BILLING CODE 4310-70-M

Martin Luther King, Jr., National Historic Site; Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATE: October 26, 1988.

ADDRESS: The Martin Luther King, Jr., Community Center, 450 Auburn Avenue NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue NE., Atlanta, Georgia 30312.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King, Jr., National Historic Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr., National Historic Site. The members of the Advisory Commission are as follows:

Ms. Portia Scott, Chairperson
Mr. William W. Allison
Mr. Arthur J. Clement

Mr. John Cox
Mrs. Christine King Farris
Mrs. Valena Henderson
Mr. C. Randy Humphrey
Dr. Elizabeth A. Lyon
Mr. Daniel H. Nall
Rev. Joseph L. Roberts
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include: (1) The status of park development and interpretive activities.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 6, 1988.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 88-23979 Filed 10-17-88; 8:45 am]

BILLING CODE 4310-70-M

Delegation of Concession Permit Authority; Western Region

Pursuant to National Park Service Order 77, dated February 27, 1973, the authority to execute, amend, assign, and terminate concessions contracts and permits was delegated to Regional Directors.

In accordance with the provisions of National Park Service Order 77, the authority to execute, amend, approve assignments or sales, or terminate concession permits of under five (5) years duration, or when anticipated annual gross receipts will amount to less than $100,000, is hereby redelegated to park superintendents in the Western Region, National Park Service, effective with the publication of this notice.

Questions concerning this authority should be directed to Mr. Stephen G. Crabtree, Chief, Division of Concessions Program Management, Western Region, telephone (415) 556-5510.

Stanley T. Albright,

Regional Director, Western Region.

Date: September 20, 1988.

[FR Doc. 88-23974 Filed 10-17-88; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 8, 1988. Pursuant to section 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, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 2, 1988.

Beth Boland,

Acting Chief of Registration, National Register.

CALIFORNIA

San Francisco County

SS Rio De Janeiro Shipwreck, Address Restricted, San Francisco vicinity, 88002394

COLORADO

Adams County

Bowles House, 3924 W. 72nd Ave., Westminister, 88002308

Denver County

Brown, J.S., Mercantile Building, 1634 18th St., Denver, 88002375
Buchtel Bungalow, 2100 S. Columbine St., Denver, 88002383

El Paso County

Lewis, Inez Johnson, School, 146 Jefferson St., Monument, 88002306

Weld County

United Church of Christ of Highlandlake, 16896 Weld CR 5, Mead vicinity, 88002237

GEORGIA

Spalding County

Griffin Commercial Historic District, Roughly bounded by Central Alley, Sixth, Taylor and Eighth Sts., Griffin, 88002310

ILLINOIS

Cook County

Fairbanks, Morse and Company, Building, 900 S. Wabash Ave., Chicago, 88002233
Shakespeare Garden, Northwestern University campus, Evanston, 88002234
Twin Tower Sanctuary, 9967 W. 144th St., Orland Park, 88002235

Fulton County

Vermont Masonic Hall, N. Main St., Vermont, 88002236

La Salle County

Hotel Kaskaskia, 217 Marquette St., LaSalle, 88002229

Vermilion County

Holland Apartments, 324-326 N. Vermillion St., Danville, 88002232

KENTUCKY

Scott County

Garth School, 501 S. Hamilton St., Georgetown, 88002187
Suggett, William, Agricultural and Industrial District, SW of jct. of Cane Run Rd. and US 460, Georgetown, 88002182

MARYLAND

Somerset County

Waddy House, Perryhawkin Rd., Princess Anne vicinity, 88002221

MISSISSIPPI

Claiborne County

Owens Creek Bridge (Historic Bridges of Mississippi TR), Spans Owen Creek on Old CR, Utica vicinity 88002398
Widow's Creek Bridge (Historic Bridges of Mississippi TR), Spans Widow's Creek on CR, Port Gibson vicinity, 88002409

Clark County

Enterprise Bridge (Historic Bridges of Mississippi TR), Spans Chickasawhay River on Bridge St., Enterprise, 88002402
Highway 11 Bridge over Chunky River (Historic Bridges of Mississippi TR), Spans Chunky River on US 11, Enterprise vicinity, 88002400
Shubuta Bridge (Historic Bridges of Mississippi TR) Spans Chickasawhay River on CR E of Shubuta, Shubuta vicinity, 88002490

Clay County

Tibbee Bridge (Historic Bridges of Mississippi TR), Spans Tibbee Creek on Old Tibbee Rd., West Point vicinity, 88002411
Waverly Bridge (Historic Bridges of Mississippi TR), Spans Tombigbee River on Columbus and Greenville RR, Waverly vicinity, 88002412

Copiah County

Gatesville Bridge (Historic Bridges of Mississippi TR), Spans Pearl River of CR E of Gatesville, Gatesville vicinity, 88002482
Homochitto River Bridge (Historic Bridges of Mississippi TR), Spans Homochitto River on CR, Hazelhurst vicinity, 88002491
Rockport Bridge (Historic Bridges of Mississippi TR), Spans Pearl River on CR S of Georgetown, Georgetown vicinity, 88002414

Franklin County

Ediceton Bridge (Historic Bridges of Mississippi TR), Spans Homochitto River on CR, Ediceton vicinity, 88002404

Green County

Leaf River Bridge (Historic Bridges of Mississippi TR), Spans Leaf River N of McClain on CR, McClain vicinity, 88002478

Hinds County

Wilson, Woodrow, Bridge (Historic Bridges of Mississippi TR), Spans Pearl River on Silas Brown St., Jackson, 88002485

Lauderdale County

Stuckey's Bridge (Historic Bridges of Mississippi TR), Spans Chunky River on CR, Meridian vicinity, 88002415

Lawrence County

Bahala Creek Bridge (Historic Bridges of Mississippi TR), Spans Bahala Creek on CR SW of Oma, Oma vicinity, 88002417

Leflore County

Keesler Bridge (Historic Bridges of Mississippi TR), Spans Yazoo River at Fulton St., Greenwood, 88002489

Lowndes County

Columbus Bridge (Historic Bridges of Mississippi TR), Spans Tombigbee River on Old US 82, Columbus, 88002396
Motley Slough Bridge (Historic Bridges of Mississippi TR), Spans Motley Slough on Shaeffer's Chapel Rd., Columbus vicinity, 88002405

Monroe County

Rogers, Francis M., House (Aberdeen MRA), High and Hickory Sts., Aberdeen, 88002222

Noxubee County

Running Water Creek Bridge (Historic Bridges of Mississippi TR), Spans Running Water Creek on CR, Shuqualak vicinity, 88002487

Stone County

McHenry, George Austin, House, McHenry Ave. and Fifth St., McHenry, 88002223

Sunflower County

Woodburn Bridge (Historic Bridges of Mississippi TR), Spans Big Sunflower River on CR SE of Indianola, Indianola vicinity, 88002492

Tate County

Hickahala Creek Bridge (Historic Bridges of Mississippi TR), Spans Hickahala Creek on CR, Senatobia vicinity, 88002479

Warren County

Big Black River Railroad Bridge (Historic Bridges of Mississippi TR), Spans Big Black River E of Bovina, Bovina vicinity, 88002418
Confederate Avenue Brick Arch Bridge (Historic Bridges of Mississippi TR), Confederate Ave., Vicksburg, 88002421
Confederate Avenue Steel Arch Bridge (Historic Bridges of Mississippi TR), Spans Jackson Rd. in Vicksburg National Military Park, Vicksburg, 88002483
Fairground Street Bridge (Historic Bridges of Mississippi TR), Spans ICG RR yard on Fairground St., Vicksburg, 88002420
Mississippi River Bridge (Historic Bridges of Mississippi TR), Spans Mississippi River on Old US 80, Vicksburg, 88002423

Wayne County

Waynesboro Bridge (Historic Bridges of Mississippi TR), Spans Chickaswhay River on Old US 84, Waynesboro vicinity, 88002494
Yellow Creek Bridge (Historic Bridges of Mississippi TR), Spans Yellow Creek on Cr NW of Waynesboro, Waynesboro vicinity, 88002493

NEW YORK

Albany County

US Post Office—Delmar (US Post Offices in New York State, 1858–1943, TR), 357 Delmar, Delmar, 88002480

Allegany County

US Post Office—Wellsville (US Post Offices in New York State, 1858–1943, TR), 40 E. Pearl St., Wellsville 88002445

Bronx County

US Post Office—Morrisania (US Post Offices in New York State, 1858–1943, TR), 442 E. 167th St., New York, 88002458

Broome County

US Post Office—Endicott (US Post Offices in New York State, 1858–1943, TR), 200 Washington Ave., Endicott, 88002498
US Post Office—Johnson City (US Post Offices in New York State, 1858–1943, TR), 307 Main St., Johnson City, 88002336

Cattaraugus County

US Post Office—Little Valley (US Post Offices in New York State, 1858–1943, TR), 115 Main St., Little Valley, 88002344
US Post Offices—Olean (US Post Offices in New York State, 1858–1943, TR), 102 S. Union St., Olean, 88002388

Chautauqua County

US Post Office—Dunkirk (US Post Offices in New York State, 1858–1943, TR), 410 Central Ave., Dunkirk, 88002488
US Post Office—Fredonia (US Post Offices in New York State, 1858–1943, TR), 21 Day St., Fredonia, 88002515

Chenango County

Sherburne High School, 16 Chapel St., Sherburne, 88002185
US Post Office—Norwich (US Post Offices in New York State, 1858–1943, TR), 20–22 E. Main St., Norwich, 88002380
US Post Office—Oxford (US Post Offices in New York State, 1858–1943, TR), S. Washington Ave., Oxford, 88002392

Columbia County

US Post Office—Hudson (US Post Offices in New York State, 1858–1943, TR), 402 Union St., Hudson, 88002508

Cortland County

US Post Office—Cortland (US Post Offices in New York State, 1858–1943, TR), 88 Main St., Cortland, 88002475
US Post Office—Homer (US Post Offices in New York State, 1858–1943, TR), 2 S. Main St., Homer, 88002502

Delaware County

US Post Office—Delhi (US Post Offices in New York State, 1858–1943, TR), 10 Court St., Delhi, 8800247177
US Post Office—Walton (US Post Offices in New York State, 1858–1943, TR), 34–36 Gardner Pl., Walton, 88002439

Dutchess County

US Post Office—Beacon (US Post Offices in New York State, 1858–1943, TR), 369 Main St., Beacon, 88002456
US Post Office—Hyde Park (US Post Offices in New York State, 1858–1943, TR), E. Market St. and US 9, Hyde Park, 88002511
US Post Office—Poughkeepsie (US Post Offices in New York State, 1858–1943, TR), Mansion St., Poughkeepsie, 88002413
US Post Office—Rhinebeck (US Post Offices in New York State, 1858–1943, TR), 14 Mill St., Rhinebeck, 88002419
US Post Office—Wappingers Falls (US Post Offices in New York State, 1858–1943, TR), 2 South Ave., Wappingers Falls, 88002440

Erie County

US Post Office—Akron (US Post Offices in New York State, 1858–1943, TR), 118 Main St., Akron, 88002449
US Post Office—Angola (US Post Offices in New York State, 1858–1943, TR), 80 N. Main St., Angola, 88002452
US Post Office—Depew (US Post Offices in New York State, 1858–1943, TR), Warsaw St., Depew, 88002481
US Post Office—Lancaster (US Post Offices in New York State, 1858–1943, TR), 5064 Broadway, Lancaster, 88002340
US Post Office—Springville (US Post Offices in New York State, 1858–1943, TR), 75 Franklin St., Springville, 88002433
US Post Office—Tonawanda (US Post Offices in New York State, 1858–1943, TR), 96 Seymour St., Tonawanda, 88002437

Essex County

Black Watch Library (Ticonderoga MRA), 161 Montcalm St., Ticonderoga, 88002199
Burleigh, H.G., House (Ticonderoga MRA), 307 Champlain Ave., Ticonderoga, 88001902
Central School (Ticonderoga MRA), 324 Champlain Ave., Ticonderoga, 88002202
Clark House (Ticonderoga MRA), 331 Montcalm St., Ticonderoga, 88002204
Community Building (Ticonderoga MRA), Montcalm and Champlain Sts., Ticonderoga, 88002198
Delano, Clayton H., House (Ticonderoga MRA), 25 Father Jogues Pl., Ticonderoga, 88002195
Ferris House (Ticonderoga MRA), 16 Carillon Rd., Ticonderoga, 88002203
Gilligan and Stevens Block (Ticonderoga MRA), 115 Montclam St., Ticonderoga, 88002193
Hancock House (Ticonderoga MRA), Montcalm and Wicker Sts., Ticonderoga, 88002197
Moore, Silas B., Gristmill (Ticonderoga MRA), 218 Montcalm St., Ticonderoga, 88002190
NVS Armory (Ticonderoga MRA), 315 Champlain Ave., Ticonderoga, 88002200
PAD Factory, The (Ticonderoga MRA), 109 Lake George Ave., Ticonderoga, 88002205
St. Mary's Church and Rectory (Ticonderoga MRA), 10–12 Father Jogues Pl., Ticonderoga, 88002196
Ticonderoga High School (Ticonderoga MRA), Calkins Pl., Ticonderoga, 88002201
Ticonderoga National Bank (Ticonderoga MRA), 101 Montcalm St., Ticonderoga, 88002194
Ticonderoga Pulp and Paper Company Office (Ticonderoga MRA), Montcalm St., Lake Placid, 88002191

US Post Office—Lake Placid (US Post Offices in New York State, 1858–1943, TR), 201 Main St., Lake Placid, 88002339
US Post Office—Ticonderoga (US Post Offices in New York State, 1858–1943, TR), 123 Champlain Ave., Ticonderoga, 88002436

Franklin County

US Post Office—Malone (US Post Offices in New York State, 1858–1943, TR), E. Main and Washington St,. Malone, 88002350

Fulton County

US Post Office—Johnstown (US Post Offices in New York State, 1858–1943, TR), 14 N. William St., Johnstown, 88002337

Genesee County

US Post Office—Le Roy (US Post Offices in New York State, 1858–1943, TR), 2 Main St., Le Roy, 88002342

Greene County

US Post Office—Catskill (US Post Offices in New York State, 1858–1943, TR), 270 Main St., Catskill, 88002471

Herkimer County

US Post Office—Dolgeville (US Post Offices in New York State, 1858–1943, TR), 41 S. Main St., Dolgeville, 88002486
US Post Office—Frankfort (US Post Offices in New York State, 1858–1943, TR), E. Main St., Frankfort, 88002512
US Post Office—Ilion (US Post Offices in New York State, 1858–1943, TR), 48 First St., Ilion, 88002513
US Post Office—Little Falls (US Post Offices in New York State, 1858–1943, TR), 25 W. Main St., Little Falls, 88002343
US Post Office—Herkimer (US Post Offices in New York State, 1858–1943, TR), 135 Park Ave., Herkimer, 88002501

Jefferson County

US Post Office—Carthage (US Post Offices in New York State, 1858–1943, TR), 521 State St., Carthage, 88002470

Kings County

US Post Office—Flatbush Station (US Post Offices in New York State, 1858–1943, TR), 2273 Church Ave., New York 88002460
US Post Office—Kensington (US Post Offices in New York State, 1858–1943, TR), 421 McDonald Ave., New York, 88002461
US Post Office—Metropolitan Station (US Post Offices in New York State, 1858–1943, TR), 47 Debevoise St., New York, 88002462
US Post Office—Parkville Station (US Post Offices in New York State, 1858–1943, TR), 6618 20th Ave., New York, 88002463

Livingston County

US Post Office—Dansville (US Post Offices in New York State, 1858–1943, TR), 100 Main St., Dansville, 88002476

Madison County

US Post Office—Canastota (US Post Offices in New York State, 1858–1943, TR), 118 S. Peterboro St., Canton, 88002467
US Post Office—Hamilton (US Post Offices in New York State, 1858–1943, TR), 32 Broad St., Hamilton, 88002522
US Post Office—Oneida (US Post Offices in New York State, 1858–1943, TR), 133 Farrier Ave., Oneida, 88002390

Monroe County

Madison Square—West Main Street Historic District, Roughly bounded by Silver, Canal, W. Main and Madison Sts., Rochester, 88002382
US Post Office—East Rochester (US Post Offices in New York State, 1858–1943, TR), 206 W. Commercial St., East Rochester 88002495
US Post Office—Honeoye Falls (US Post Offices in New York State, 1858–1943, TR), W. Main St. and Episcopal Ave., Honeoye Falls, 88002505

Montgomery County

US Post Office—Amsterdam (US Post Offices in New York State, 1858–1943, TR), 12–16 Church St., Amsterdam, 88002451
US Post Office—Canajoharie (US Post Offices in New York State, 1858–1943, TR), 50 W. Main St., Canajoharie 88002464
US Post Office—Fort Plain (US Post Offices in New York State, 1858–1943, TR), 41 River St., Fort Plain, 88002510
US Post Office—St. Johnsville (US Post Offices in New York State, 1858–1943, TR), Main St., St. Johnsville, 88002434

Nassau County

US Post Office—Freeport (US Post Offices in New York State, 1858–1943, TR), 132 Merrick Rd., Freeport, 88002517
US Post Office—Garden City (US Post Offices in New York State, 1858–1943, TR), 600 Franklin St., Garden City, 88002521
US Post Office—Glen Cove (US Post Offices in New York State, 1858–1943, TR), 2 Glen Cove St., Glen Cove 88002525
US Post Office—Great Neck (US Post Offices in New York State, 1858–1943, TR), 1 Welwyn Rd., Great Neck Plaza, 88002526
US Post Office—Hempstead (US Post Offices in New York State, 1858–1943, TR), 200 Fulton Ave., Hempostead, 88002499
US Post Office—Long Beach (US Post Offices in New York State, 1858–1943, TR), 1001 E. Park Ave., Long Beach 88002347
US Post Office—Mineola (US Post Offices in New York State, 1858–1943, TR), Main and First Sts., Mineola 88002354
US Post Office—Oyster Bay (US Post Offices in New York State, 1858–1943, TR), Shore Ave., Oyster Bay, 88002393
US Post Office—Rockville Centre (US Post Offices in New York State, 1858–1943, TR), 250 Merrick Rd., Rockville Centre, 88002425

New York County

US Post Office—Canal Street Station (US Post Offices in New York State, 1858–1943, TR), 350 Canal St., New York, 88002358
US Post Office—Church Street Station (US Post Offices in New York State, 1858–1943, TR), 90 Church St., New York, 88002359
US Post Office—Cooper Station (US Post Offices in New York State, 1858–1943, TR), 96 Fourth St., New York, 88002360
US Post Office—Inwood Station (US Post Offices in New York State, 1858–1943, TR), 90 Vermilyea Ave., Now York, 88002361
US Post Office—Knickerbocker Station (US Post Offices in New York State, 1858–1943, TR), 130 E. Broadway, New York 88002362
US Post Office—Lenox Hill Station (US Post Offices in New York State, 1858–1943, TR), 221 E. 70th St., New York 88002363
US Post Office—Madison Square Station (US Post Offices in New York State, 1858–1943, TR), 149–153 E. 23rd St., New York 88002364
US Post Office—Old Chelsea Station (US Post Offices in New York State, 1858–1943, TR), 217 W. 18th St., New York 88002365

Niagara County

US Post Office—Lockport (US Post Offices in New York State, 1858–1943, TR), 1 East Ave., Lockport, 88002345
US Post Office—Middleport (US Post Offices in New York State, 1858–1943, TR), 42 Main St., Middleport, 88002353
US Post Office—Niagara Falls Main (US Post Offices in New York State, 1858–1943, TR), Main and Walnut Sts., Niagara Falls, 88002379
US Post Office—North Tonawanda (US Post Offices in New York State, 1858–1943, TR), 141 Goundry St., North Tonawanda, 88002357

Oneida County

First Presbyterian Church, 1605 Genesee St., Utica, 88002172
US Post Office—Boonville (US Post Offices in New York State, 1858–1943, TR), 101 Main St., Boonville, 88002457

Onondaga County

Brown, Alexander, House, 726 W. Onondaga St., Syracuse, 88002376

Ontario County

US Post Office—Canadaigua (US Post Offices in New York State, 1858–1943, TR), 28 N. Main St., Canadaigua 88002465
US Post Office—Geneva (US Post Offices in New York State, 1858–1943, TR), 67 Castle St., Geneva, 88002523

Orange County

US Post Office—Goshen (US Post Offices in New York State, 1858–1943, TR), Grand St., Goshen, 88002527
US Post Office—Newburgh (US Post Offices in New York State, 1858–1943, TR), 215–217 Liberty St., Newburgh, 88002367
US Post Office—Pearl River (US Post Offices in New York State, 1858–1943, TR), Franklin and Main Sts., Pearl River, 88002399
US Post Office—Post Jervis (US Post Offices in New York State, 1858–1943, TR), 20 Sussex St., Port Jervis, 88002408

Orleans County

US Post Office—Albion (US Post Offices in New York State, 1858–1943, TR), Main St., Albion, 88002450
US Post Office—Medina (US Post Offices in New York State, 1858–1943, TR), 128 W. Center St., Medina, 88002351

Oswego County

Barlow, Smith H., House (Sandy Creek MRA), Harwood Dr., Sandy Creek, 88002214
First Baptist Church (Sandy Creek MRA), Harwood Dr., Sandy Creek, 88002218
First National Bank of Lacona (Sandy Creek MRA), Harwood Dr. and Salina St., Sandy Creek, 88002219
Holyoke Cottage (Sandy Creek MRA), Seber Shore Rd., Sandy Creek vicinity, 88002216

Lacona Clock Tower (Sandy Creek MRA), Harwood Dr., Sandy Creek, 88002220
Methodist Church (Sandy Creek MRA), Harwood Dr., Sandy Creek, 88002213
Pitt, Newton M., House (Sandy Creek MRA), 8114 Harwood Dr., Sandy Creek, 88002209
Sadler, Samuel, House (Sandy Creek MRA), N. Main St., Sandy Creek, 88002212
Salisbury, Charles, M., House (Sandy Creek MRA), 9089 Church St., Sandy Creek, 88002217
Sandy Creek Historic District (Sandy Creek MRA), Jct. of Lake Rd. and US 11, Sandy Creek, 88002208
Shoercraft, Matthew, House (Sandy Creek MRA), Ridge Rd. at Smartville Rd., Sandy Creek, 88002210
Smart, Fred, House (Sandy Creek MRA), Salina St., Sandy Creek, 88002215
Tuttle, Newman, House (Sandy Creek MRA), Harwood Dr. at Ridge Rd., Sandy Creek, 88002211
US Post Office—Fulton (US Post Offices in New York State, 1858–1943, TR), 214 S. First St., Fulton, 88002519
Van Buren, John, Tavern, NY 57 and Van Buren Dr., Fulton vicinity, 88002377

Otsego County

US Post Office—Cooperstown (US Post Offices in New York State, 1858–1943, TR), 28–40 Main St., Cooperstown, 88002473
US Post Office—Richfield Springs (US Post Offices in New York State, 1858–1943, TR), 12 E. Main St., Richfield Spings, 88002422

Queens County

US Post Office—Far Rockaway (US Post Offices in New York State, 1858–1943, TR), 18–36 Mott Ave., New York, 88002500
US Post Office—Flushing Main (US Post Offices in New York State, 1858–1943, TR), 41–65 Main St., New York, 88002507
US Post Office—Forest Hills Station (US Post Offices in New York State, 1858–1943, TR), 106–28 Queens Blvd., New York, 88002503
US Post Office—Jackson Heights Station (US Post Offices in New York State, 1858–1943, TR), 78–03 37th Ave., New York, 88002504
US Post Office—Jamaica Main (US Post Offices in New York State, 1858–1943, TR), 88–40 164th St., New York, 88002335
US Post Office—Long Island City (US Post Offices in New York State, 1858–1943, TR), 46–02 21st St., New York, 88002348

Rensselaer County

US Post Office—Hoosick Falls (US Post Offices in New York State, 1856–1943, TR), 35 Main St., Hoosick Falls, 88002506
US Post Office—Troy (US Post Offices in New York State, 1858–1943, TR), 400 Broadway, Troy, 88002438

Rockland County

US Post Office—Haverstraw (US Post Offices in New York State, 1858–1943, TR), 86 Main St., Haverstraw, 88002497
US Post Office—Nyack (US Post Offices in New York State, 1858–1943, TR), 48 S. Broadway, Nyack, 88002387
US Post Office—Spring Valley (US Post Offices in New York State, 1858–1943, TR), 7 N. Madison Ave., Spring Valley, 88002432
US Post Office—Suffern (US Post Offices in New York State, 1858–1943, TR), 15 Chestnut St., Suffern, 88002435

St. Lawrence County

US Post Office—Canton (US Post Offices in New York State, 1858–1943, TR), Park St., Canton, 88002469
US Post Office—Gouverneur (US Post Offices in New York State, 1858–1943, TR), 35 Grove St., Gouverneur, 88002516
US Post Office—Potsdam (US Post Offices in New York State, 1858–1943, TR), 21 Elm St., Potsdam, 88002410

Saratoga County

US Post Office—Ballston Spa (US Post Offices in New York State, 1858–1943, TR), 1 Front St., Ballston Spa, 88002468
US Post Office—Saratoga Springs (US Post Offices in New York State, 1858–1943, TR), 475 Broadway, Saratoga Springs, 88002427

Schenectady County

US Post Office—Schenectady (US Post Offices in New York State, 1858–1943, TR), Jay and Liberty Sts., Schenectady, 88002429
US Post Office—Scotia Station (US Post Offices in New York State, 1858–1943, TR), 224 Mohawk Ave., Scotia, 88002430

Schoharie County

US Post Office—Middleburgh (US Post Offices in New York State, 1858–1943, TR), 162 Main St., Middleburgh, 88002352

Schuyler County

US Post Office—Watkins Glen (US Post Offices in New York State, 1858–1943, TR), 600 N. Franklin St., Watkins Glen, 88002443

Seneca County

US Post Office—Seneca Falls (US Post Offices in New York State, 1858–1943, TR), 34–42 State St., Seneca Falls, 88002431
US Post Office—Waterloo (US Post Offices in New York State, 1858–1943, TR), 2 E. Main St., Waterloo, 88002442

Steuben County

US Post Office—Bath (US Post Offices in New York State, 1858–1943, TR), 101 Liberty St., Bath, 88002454
US Post Office—Corning (US Post Offices in New York State, 1858–1943, TR), 129 Walnut St., Corning, 88002474
US Post Office—Painted Post (US Post Offices in New York State, 1858–1943, TR), 135 N. Hamilton St., Painted Post, 88002395

Suffolk County

US Post Office—Bay Shore (US Post Offices in New York State, 1858–1943, TR), 10 Bay Shore Ave., Bay Shore, 88002455
US Post Office—Northport (US Post Offices in New York State, 1858–1943, TR), 244 Main St., Northport, 88002356
US Post Office—Patchogue (US Post Offices in New York State, 1858–1943, TR), 170 E. Main St., Patchogue, 88002397
US Post Office—Riverhead (US Post Offices in New York State, 1858–1943, TR), 23 W. Second St., Riverhead, 88002424
US Post Office—Westhampton Beach (US Post Offices in New York State, 1858–1943, TR), Main St., Westhampton Beach, 88002446

Tioga County

US Post Office—Owego (US Post Offices in New York State, 1858–1943, TR), 6 Lake St., Owego, 88002391
US Post Office—Waverly (US Post Offices in New York State, 1858–1943, TR), 434–348 Waverly St., Waverly, 88002444

Tompkins County

US Post Office—Ithaca (US Post Offices in New York State, 1858–1943, TR), 213 N. Tioga St., Ithaca, 88002514

Ulster County

US Post Office—Ellenville (US Post Offices in New York State, 1858–1943, TR), Liberty Pl., Ellenville, 88002496

Warren County

US Post Office—Lake George (US Post Offices in New York State, 1858–1943, TR), Canada and James St., Lake George, 88002338

Washington County

US Post Office—Granville (US Post Offices in New York State, 1858–1943, TR), 41 Maine St., Granville, 88002520
US Post Office—Hudson Falls (US Post Offices in New York State, 1858–1943, TR), 114 Main St., Hudson Falls, 88002509
US Post Office—Whitehall (US Post Offices in New York State, 1858–1943, TR), 88 Broadway, Whitehall, 88002447

Wayne County

US Post Office—Clyde (US Post Offices in New York State, 1858–1943, TR), 26 S. Park St., Clyde, 88002472
US Post Office—Lyons (US Post Offices in New York State, 1858–1943, TR), 1–5 Pearl St., Lyons, 88002347
US Post Office—Newark (US Post Offices in New York State, 1858–1943, TR), Maple Ct., and S. Main St., Newark, 88002366

Westchester County

US Post Office—Bronxville (US Post Offices in New York State, 1858–1943, TR), Pondfield Rd., Bronxville, 88002459
US Post Office—Dobbs Ferry (US Post Offices in New York State, 1858–1943, TR), Main St., Dobbs Ferry, 88002484
US Post Office—Harrison (US Post Offices in New York State, 1858–1943, TR), 258 Halstead Ave., Harrison, 88002524
US Post Office—Larchmont (US Post Offices in New York State, 1858–1943, TR), 1 Chatsworth Ave., Larchmont, 88002341
US Post Office—Mount Vernon (US Post Offices in New York State, 1858–1943, TR), 15 S. First St., Mount Vernon, 88002355
US Post Office—New Rochelle (US Post Offices in New York State, 1858–1943, TR), 255 North Ave., New Rochelle, 88002368
US Post Office—Peekskill (US Post Offices in New York State, 1858–1943, TR), 738 South St., Peekskill, 88002401
US Post Office—Port Chester (US Post Offices in New York State, 1858–1943, TR), 245 Westchester Ave., Port Chester, 88002406
US Post Office—Rye (US Post Offices in New York State, 1858–1943, TR), 41 Purdy Ave., Rye, 88002426

US Post Office—Scarsdale (US Post Offices in New York State, 1858–1943, TR), Chase Rd., Scarsdale, 88002428
US Post Office—Yonkers (US Post Offices in New York State, 1858–1943, TR), 79–81 Main St., Yonkers, 88002448

Wyoming County

US Post Office—Attica (US Post Offices in New York State, 1858–1943, TR), 76 Main St., Attica, 88002453
US Post Office—Warsaw (US Post Offices in New York State, 1858–1943, TR), 35 S. Main St., Warsaw, 88002441

Yates County

US Post Office—Penn Yan (US Post Offices in New York State, 1858–1943, TR), 159 Main St., Penn Yan, 88002403

Pennsylvania

Bedford County

Bedford County Alms House, Cumberland Rd., 4 mi. S of Bedford, Bedford vicinity, 88002378

Berks County

Hamburg Public Library, 35 N. Third St., Hamburg, 88002369
Lincoln, Mordecai, House, Lincoln Rd., Lorane, 88002370

Bucks County

Hammerstein, Oscar, II, Farm, 70 East Rd., Doylestown, 88002374

Chester County

French Creek Farm, Kimberton Rd., Kimberton, 88002372

Dauphin County

Todd, John, House, S. Meadow Ln., Hummelstown vicinity, 88002371

Delaware County

Westlawn, 123 N. Providence Rd., Wallingford, 88002188

Lackawanna County

Warner, Oliver, Farmstead, NY 88, Clifton Springs vicinity, 88002189

Lancaster County

Kagerise Store and House, 84–86 W. Main St., Adamstown, 88002174

Luzerne County

Forty Fort Meetinghouse River St., and Wyoming Ave., Forty Fort, 88002373

Northumberland County

Northumberland Historic District, Roughly bounded by Forth and A Sts., North Shore RR and Wheatley Ave., Northumberland, 88002313

Philadelphia County

Adamson, William, School (Philadelphia Public Schools TR), 2637—2647 N. 4th St., Philadelphia, 88002224
Alcorn, James, School (Philadelphia Public Schools TR), 1500 S. 32nd St., Philadelphia 88002225
Allen, Ethan, School (Philadelphia Public Schools TR), 3001 Robbins Ave., Philadelphia, 88002227
Audenried, Charles V., Junior High School (Philadelphia Public Schools TR), 1601 S. 33rd St., Philadelphia, 88002239
Axe, William W., School (Philadelphia Public Schools TR), 1709—1733 Kinsey St., Philadelphia, 88002240
Barton, Clara, School (Philadelphia Public Schools TR), 300 E. Wyoming Ave., Philadelphia, 88002242
Beeber, Dimner, Junior High School (Philadelphia Public Schools TR), 5901 Malvern Ave., Philadelphia, 88002244
Belmont School (Philadelphia Public Schools TR), 4030—4060 Brown St., Philadelphia, 88002245
Birney, Gen. David B., School (Philadelphia Public Schools TR), 900 W. Lindley St., Philadelphia, 88002246
Blankenburg, Reudolph, School (Philadelphia Public Schools TR), 4600 Girard Ave., Philadelphia, 88002248
Bregy, F. Amadee, School (Philadelphia Public Schools TR), 1700 Bigler St., Philadelphia, 88002249
Bridesburg School (Philadelphia Public Schools TR), 2624 Haworth St., Philadelphia, 88002285
Brown, Joseph H., School (Philadelphia Public Schools TR), 8118—8120 Frankford Ave., Philadelphia, 88002250
Carnell, Laura H., School (Philadelphia Public Schools TR), 6101 Summerdale Ave., Philadelphia, 88002251
Cassidy, Lewis C., School (Philadelphia Public Schools TR), 6523—6543 Lansdowne Ave., Philadelphia, 88002252
Catharine, Joseph W., School (Philadelphia Public Schools TR), 6600 Chester Ave., Philadelphia, 88002253
Chandler, George, School (Philadelphia Public Schools TR), 1050 E. Montgomery St., Philadelphia, 88002255
Childs, George W., School (Philadelphia Public Schools TR), 1501 S. 17th St., Philadelphia, 88002257
Comly, Watson, School (Philadelphia Public Schools TR), 13250 Trevose Rd., Philadelphia, 88002324
Conwell, Russell H., School (Philadelphia Public Schools TR), 1829—1951 E. Clearfield St., Philadelphia, 88002258
Cooke, Jay, Junior High School (Philadelphia Public Schools TR), 4735 Old York Rd., Philadelphia, 88002259
Creighton, Thomas, School (Philadelphia Public Schools TR), 5401 Tabor Rd., Philadelphia, 88002260
Crossan, Kennedy, School (Philadelphia Public Schools TR), 7341 Palmetto St., Philadelphia, 88002261
Disston, Hamilton School (Philadelphia Public Schools TR), 6801 Cottage St., Philadelphia, 88002262
Disston, Mary, School (Philadelphia Public Schools TR), 4521 Longshore Ave., Philadelphia, 88002319
Dobbins, Murrell, Vocational School (Philadelphia Public Schools TR), 2100 Lehigh Ave., Philadelphia, 88002263
Dobson, James, School (Philadelphia Public Schools TR), 4665 Umbria St., Philadelphia, 88002264
Durham, Thomas, School (Philadelphia Public Schools TR), 1600 Lombard St., Philadelphia, 88002265
Edmunds, Henry R., School (Philadelphia Public Schools TR), 1101—1197 Haworth St., Philadelphia, 88002266
Elverson, James, Jr., School (Philadelphia Public Schools TR), 1300 Susquehanna Ave., Philadelphia, 88002231
Emlen, Eleanor Cope, School of Practice (Philadelphia Public Schools TR), 6501 Chew St., Philadelphia, 88002267
Fell, D. Newlin, School (Philadelphia Public Schools TR), 900 Oregon Ave., Philadelphia, 88002268
Feltonville School No. 2 (Philadelphia Public Schools TR), 4901 Rising Sun Ave., Philadelphia, 88002269
Ferguson, Joseph C., School (Philadelphia Public Schools TR), 2000—2046 7th St., Philadelphia, 88002270
Finletter, Thomas K., School (Philadelphia Public Schools TR), 6101 N. Front St., Philadelphia, 88002271
Fitzsimons, Thomas, Junior High School (Philadelphia Public Schools TR), 2601 W. Cumberland St., Philadelphia, 88002272
Forrest, Edwin, School (Philadelphia Public Schools TR), 4300 Bleigh St., Philadelphia, 88002273
Franklin, Benjamin, School (Philadelphia Public Schools TR), 5737—5741 Rising Sun Ave., Philadelphia, 88002274
Gillespie, Elizabeth Duane, Junior High School (Philadelphia Public Schools TR), 3901—3961 N. 18th St., Philadelphia, 88002275
Gratz, Simon, High School (Philadelphia Public Schools TR), 3901—3961 N. 18th St., Philadelphia, 88002276
Harding, Warren G., Junior High School (Philadelphia Public Schools TR), 2000 Wakeling St., Philadelphia, 88002277
Harrison, William H., School (Philadelphia Public Schools TR), 1012—1020 W. Thompson St., Philadelphia, 88002278
Henry, Charles Wolcott, School (Philadelphia Public Schools TR), 601—645 W. Carpenter Ln., Philadelphia, 88002279
Holmes Junior High School (Philadelphia Public Schools TR), 5429–5455 Chestnut St., Philadelphia, 88002281
Hopkinson, Francis, School (Philadelphia Public Schools TR), 1301–1331 E. Luzerne Ave., Philadelphia, 88002282
Houston, Henry H., School (Philadelphia Public Schools TR), 135 W. Allen's Ln., Philadelphia, 88002283
Howe, Julia Ward, School (Philadelphia Public Schools TR), 1301–1331 Grange St., Philadelphia, 88002284
Jefferson, Thomas, School (Philadelphia Public Schools TR), 1101–1125 N. 4th St., Philadelphia, 88002280
Jenks, John Story, School (Philadelphia Public Schools TR), 8301–8317 Germantown Ave., Philadelphia, 88002286
Jones, John Paul, Junior High School (Philadelphia Public Schools TR), 2922 Memphis St., Philadelphia, 88002287
Kensington High School for Girls (Philadelphia Public Schools TR), 2075 E. Cumberland St., Philadelphia, 88002288
Kirkbride, Eliza Butler, School (Philadelphia Public Schools TR), 626 Dickinson St., Philadelphia, 88002290

Lawndale School (Philadelphia Public Schools TR), 600 Hellerman St., Philadelphia, 88002254
Lea, Henry C., School of Practice (Philadelphia Public Schools TR), 242 S. 47th St., Philadelphia, 88002291
Levering, William, School (Philadelphia Public Schools TR), 5938 Ridge Ave., Philadelphia, 88002292
Logan Demonstration School (Philadelphia Public Schools TR), 5000 N. 17th St., Philadelphia, 88002293
Longfellow, Henry, School (Philadelphia Public Schools TR), 5004–5098 Tacony N. 5th St., Philadelphia, 88002294
Lowell, James Russell, School (Philadelphia Public Schools TR), 5801–5851 W. 5th St., Philadelphia, Public Schools TR), 5801–5851 W. 5th St., Philadelphia, 88002295
Ludlow, James R., School (Philadelphia Public Schools TR), 1323–1345 N. 6th St., Philadelphia, 88002296
Mann, William, School (Philadelphia Public Schools TR), 1835–1869 N. 54th St., Philadelphia, 88002297
Marshall, John, School (Philadelphia Public Schools TR), 1501–1527 Sellers St., Philadelphia, 88002298
Martin, James, School (Philadelphia Public Schools TR), 3340 Richmond St., Philadelphia, 88002299
McClure, Alexander K., School (Philadelphia Public Schools TR), 4139 N. 6th St., Philadelphia, 88002300
Meehan, Thomas, School (Philadelphia Public Schools TR), 5347–5353 Pulaski St., Philadelphia, 88002312
Mifflin, Thomas, School (Philadelphia Public Schools TR), 3500 Midvale Ave., Philadelphia, 88002301
Morrison, Andrew J., School (Philadelphia Public Schools TR), 300 Duncannon St., Philadelphia, 88002302
Muhlenberg School (Philadelphia Public Schools TR), 1640 Master St., Philadelphia, 88002247
Mebinger, George W., School (Philadelphia Public Schools TR), 601–627 Carpenter St., Philadelphia, 88002303
Nichols, Jeremiah, School (Philadelphia Public Schools TR), 1235 S. 16th St., Philadelphia, 88002241
Overbrook School (Philadelphia Public Schools TR), 6201–6231 Lebanon Ave., Philadelphia, 88002304
Paterson, John M., School (Philadelphia Public Schools TR), 7001 Buist Ave., Philadelphia, 88002305
Peirce, William S., School (Philadelphia Public Schools TR), 2400 Christian St., Philadelphia, 88002307
Penn Treaty Junior High School (Philadelphia Public Schools TR), 600 E. Thompson St., Philadelphia, 88002311
Pennell, Joseph, School (Philadelphia Public Schools TR), 1800–1856 Nedro St., Philadelphia, 88002309
Pennypacker, Samuel W., School (Philadelphia Public Schools TR), 1800–1850 E. Washington Ln., Philadelphia, 88002314
Reynolds, Gen. John F., School (Philadelphia Public Schools TR), 2300 Jefferson St., Philadelphia, 88002315
Richmond School (Philadelphia Public Schools TR), 2942 Belgrade St., Philadelphia, 88002316
Roosevelt, Theodore, Junior High School (Philadelphia Public Schools TR), 430 E. Washington Ln., Philadelphia, 88002317
Rowen, William, School (Philadelphia Public Schools TR), 6801 N. 19th St., Philadelphia, 88002318
Sharswood, George, School (Philadelphia Public Schools TR), 200 Wolf St., Philadelphia, 88002320
Shaw, Anna Howard, Junior High School (Philadelphia Public Schools TR), 5401 Warrington St., Philadelphia, 88002321
Sheridan, Philip H., School (Philadelphia Public Schools TR), 800—818 E. Ontario St., Philadelphia, 88002322
Smedley, Franklin, School (Philadelphia Public Schools TR), 5199 Mulberry St., Philadelphia, 88002323
Stanton, Edwin M., School (Philadelphia Public Schools TR), 1616–1644 Christian St., Philadelphia, 88002326
Sullivan, James J., School (Philadelphia Public Schools TR), 5300 Ditman St., Philadelphia, 88002327
Sulzberger, Mayer, Junior High School (Philadelphia Public Schools TR), 701–741 N. 48th St., Philadelphia, 88002328
Taylor, Bayard, School (Philadelphia Public Schools TR), 3614–3630 N. Randolph St., Philadelphia, 88002329
Thomas, George C., Junior High School (Philadelphia Public Schools TR), 2746 S. 9th St., Philadelphia, 88002330
Vare, Edwin H., Junior High School (Philadelphia Public Schools TR), 2102 S. 24th St., Philadelphia, 88002331
Vaux, Roberts, Junior High School (Philadelphia Public Schools TR), 230–2344 W. Master St., Philadelphia, 88002332
Whittier, John Greenleaf, School (Philadelphia Public Schools TR), 2600 Clearfield St., Philadelphia, 88002334
Wilmot, David, School (Philadelphia Public Schools TR), 1734 Meadow St., Philadelphia, 88002289
Wister, Mary Channing, School (Philadelphia Public Schools TR), 843–855 N. 8th St., Philadelphia, 88002333
Wolf, George School (Philadelphia Public Schools TR), 8100 Lyons Ave., Philadelphia, 88002243

SOUTH CAROLINA

Georgetown County

Winyah Indigo School, 1200 Highmarket St., Georgetown, 88002386

TENNESSEE

Trousdale County

DeBow, James R., House, TN 25, Hartsville vicinity, 88002381

TEXAS

Cameron County

La Madrilena, 1002 E. Madison, Brownsville, 88002384

VERMONT

Bennington County

Hard, Zera, House, River Rd., Manchester, 88002230

Chittenden County

South Willard Street Historic District, S. Willard St., Burlington, 88002226

Franklin County

Richwood Estate, N of St. Albans off US 7, St. Albans vicinity, 88002175

VIRGINIA

Chesterfield County

Bon Air Historic District, Roughly bounded by Forest Hill Rd., N. Robert, W. Bon View Dr., and McRae Rd., Richmond vicinity, 88002178

Henry County

Carter, John Waddey, House, 324 E. Church St., Martinsville, 88002180

Madison County

Greenway, US 15, Madison Mills vicinity, 88002385

Rockbridge County

Tankersley Tavern, VA 631, Lexington vicinity, 88002179

Sussex County

Nottoway Archeological Site 44SX6, 44SX7, 44SX98, 44SX162), Address Restricted, Stoney Creek vicinity, 88002181

Newport News Independent City

Harwick County Courthouses, Old Courthouse Way, Newport News (Independent City), 88002186

WISCONSIN

Ashland County

Soo Line Depot, Third Ave. W. at Fourth St., Ashland, 88002177

Dane County

McFarland House, 5923 Exchange St., McFarland, 88002228
Wisconsin Memorial Hospital Historic District, 816 Troy Dr., Madison, 88002183

Milwaukee County

Cass-Juneau Street Historic District, Roughly bounded by E. Knapp and Marshall Sts., Juneau Ave. and Van Buren St., Milwaukee, 88002389

Rock County

Carlton Hotel, 14 N. Henry St., Edgerton, 88002173

Vernon County

Cade Archeological District, Address Restricted, Newton vicinity, 88002176

Waukesha County

Cutler Mound Group, address Restricted, Waukesha vicinity, 88002184

[FR Doc. 88–23879 Filed 10–17–88; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-290 (Sub-No. 36)]

Southern Railway—Carolina Division and Southern Railway Co.—Abandonment and Discontinuance of Service—In Cleveland and Rutherford Counties, NC; Findings

The Commission has issued a certificate authorizing: (a) Southern Railway-Carolina Division to abandon, and Southern Railway Company to discontinue service over, 13.94 miles of railroad between Washburn (milepost SB-160) and Lattimore (milepost SB-161.1) and between a point south of Forest City (milepost SB-175.5) to a point north of Gilkey (milepost SB-188.34); and (b) Southern Railway Company to discontinue 19.05 miles of trackage rights over a line owned by CSX Transportation, Inc., between milepost SB-158.1 (CSX milepost SF-388.35) and Forest City at milepost SB-178.5 (CSX milepost SF-407.4), for a total distance of 32.99 miles in Cleveland and Rutherford Counties, NC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Noreta R. McGee,

Secretary.

[FR Doc. 88-24034 Filed 10-17-88; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Reinstatement.

Bureau/Office: Office of Proceedings.

Title of Form: Rules for System Diagram maps, Financial Assistance of Railroad Lines.

OMB Form No.: 3120-0045.

Agency Form No.: N/A.

Frequency: System Diagram Maps—Annually, Financial Asst.—Non-Recurring.

Respondents: Railroads.

No. of Respondents: Diagram maps—300, Financial Asst. 28.

Total Burden Hrs.: 16,015.

It is estimated that an average of 50 (Diagram Maps) & 36.25 (Financial Asst.) burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission and the Office of Information and Regulatory Affairs, Office of Management and Budget.

Brief Description of the need & proposed use: Rules, regulations and reporting requirements for the filing of system diagram maps & financial assistance offers which relate to the filing of applications for authority for abandonment of all or part of a railroad line. These rules are necessary for the commission to learn what lines are contemplated for abandonment and what financial assistance may be available to the railroad.

Noreta R. McGee,

Secretary.

[FR Doc. 88-24035 Filed 10-17-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging a Consent Decree Pursuant to the Clean Air Act; General Battery Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on *September 22, 1988* a proposed Consent Decree in *United States* v. *General Battery Corp.*, Civil Action No. C87-2028, was lodged with the United States District Court for the Northern District of Iowa.

The Complaint filed by the United States alleged that the defendants had violated the New Source Performance Standard ("NSPS") for Lead-Acid Battery Manufacturing Plants, 40 CFR Part 60, and the Clean Air Act, 42 U.S.C. 7412, and requested injunctive relief and the imposition of civil penalties. The proposed Consent Decree requires the defendant to comply with all reporting provisions of the NSPS and to pay a total civil penlty of $20,000.00.

The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *General Battery Corp.*, DOJ# Ref. 90-5-2-1-1120. The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Iowa, U.S. Courthouse, E. 1st & Walnut Streets, Des Moines, Iowa 50309. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Roger J. Marzulla,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 24020 Filed 10-17-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-20,739]

Burlington Industries Inc., Klopman Fabrics Division, Mountain City, TN; Negative Determination Regarding Application for Reconsideration

By an application dated September 8, 1988 the petitioners requested administrative reconsideration on the subject petition for trade adjustment assistance. The denial notice was signed on August 25, 1988 and published in the Federal Register on September 7, 1988 (53 FR 34596).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of 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 petitioners with Congressional support claim that workers, at Mountain City should be certified eligible to apply for adjustment assistance since a significant amount of their production was integrated with that of a sister plant in Dublin, Virginia whose workers are currently under a certification for adjustment assistance, TA–W–20,125.

Investigation findings show that Mountain City's production in 1987 consisted of about equal amounts of woven fabric and texturized yarn. Most of the texturized yarn was for internal use with the remainder being shipped to domestic corporate plants whose workers are not under a certification. The findings also show that the amount of integrated production of fabric from Mountain City to the Newbern plant in Dublin was not important.

Investigation findings also show that the increased import criterion for workers producing polyester fabric at Mountain City was not met. In early 1988 corporate officials announced the pending termination of operations at the Mountain City plant. All production will be transferred to domestic corporate plants. A domestic transfer of production would not, in itself, form a basis for certification.

U.S. imports of finished fabrics which include polyester fabric declined absolutely and relative to domestic shipments in 1987 compared to 1986 and declined absolutely in the first quarter of 1988 compared to the same quarter in 1987. Further, the Department's survey of major customers revealed that none of the respondents purchased imported heavy or light weight polyester fabric.

Investigation findings also show that corporate sales of polyester fabric and plant production of polyester fabric and texturized yarn increased in 1987 compared to 1986.

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 October 1988.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88–24051 Filed 10–17–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–20, 731]

At-A-Glance, Division of Keith Clark, Inc., Pittsfield, MA; Negative Determination Regarding Application for Reconsideration

By an application dated September 21, 1988, Local 882 of the United Paperworkers Union requested administrative reconsideration on the subject petition for trade adjustment assistance. The denial notice was signed on August 10, 1988 and published in the **Federal Register** on August 30, 1988 (53 FR 33192).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of 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 Office, a misinterpretation of facts or of the law justified reconsideration of the decision.

The At-A-Glance workers produced appointment books and calendars at their plant in Pittsfield, Massachusetts.

The subject plant had three owners during the applicable period under the petition—Textron's Sheaffer Eaton; Gefinor and Keith Clark. Textron sold Sheaffer Eaton to Gefinor in August, 1987. Sheaffer Eaton produced four lines of products: At-A-Glance appointment books and calendars at the subject plant, stationery and typewriter paper at the Eaton plant also in Pittsfield and pens at Fort Madison, Iowa.

The union claims that stationery, pens and diaries were imported. The findings show that At-A-Glance did not produce stationery or pens. The Eaton plant which was not sold to Keith Clark was producing stationery and typewriter paper when production ceased in July, 1987. Company imports of stationery accounted for a minor percent of stationery production and imports declined in 1987 when the company went out of the stationery business. Production of typewriter paper was contracted out of domestic suppliers and this business was sold to Keith Clark in February 1988 along with At-A-Glance.

The Pittsfield plant did not produce typewriter paper but kept Eaton's domestic supplier in order to service its new accounts. Appointment books were the major portion of At-A-Glance's business.

The Department's denial of the At-A-Glance workers was based on increased production and sales of appointment books and calendars in 1987 compared to 1986. Production increased in the first six months of 1988 compared to the same period in 1987. The new owners decided to close the subject plant and transfer production to another corporate plant in Sidney, New York. The Sidney plant had increased production and sales in the first six months of 1988 compared to the same period in 1987. A domestic transfer or production would not form a basis for a certification.

The findings also show that some production was contracted out to unaffiliated domestic sources in 1987 and in the first half of 1988 resulting in further employment declines. Company imports of all items—appointment books, calendars and diaries were negligible in 1987 compared to 1986 and in the first half of 1988 compared to the same period in 1987.

Conclusions

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 5th day of October 1988.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88–24052 Filed 10–17–88; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–20,689]

Key Tronic Corp., Research and Administration Building, Spokane, WA; Negative Determination Regarding Application for Reconsideration

By an application dated August 17, 1988 the petitioners requested administrative reconsideration on the subject petition for trade adjustment assistance. The denial notice was signed on July 15, 1988 and published in the **Federal Register** on August 10, 1988 (53 FR 30122).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of 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.

Workers at Key Tronic Corporation produce keyboards at three different facilities in the Spokane area. Investigative findings show that production was integrated among the three facilities. The alleged loss of some customers did not adversely affect sales and production since investigation findings show that domestic sales and production of keyboards in the Spokane region increase in fiscal year (FY) 1988 compared to FY 1987 and in the fourth quarter of FY 1987 compared to the same quarter in the FY 1986. The earliest possible impact date that could occur if all the group eligibility requirements of the Trade Act of 1974 were met would be in the fourth quarter of FY 1987.

The findings also show that in early 1988 corporate officials announced the consolidation of manufacturing operations at two facilities and the termination of production at the third facility—the Research and Administration (R&A) Building. As a result of the consolidation, all the high volume products are produced at one plant and all the low volume products are produced at the remaining plant. The R&A building was closed since it was the smallest facility. Company officials states that the consolidation was necessary because of a different product mix which was lower in price and of marginal profitability. The different product mix affected the profitability of the firm.

The findings also show that Key Tronics has two subsidiaries—Key Tronic Europe Ltd. and Key Tronic Taiwan, which serve the European and Far Eastern markets, respectively. Domestic operations, however, account for the preponderance of the corporate business. Although there were some imports of keyboards for a six month time period in 1987, they did not account for an important portion of Key Tronic's domestic sales in 1987. Key Tronic ceased importing keyboards in 1987 after a trial run.

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 5th day of October 1988.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-24053 Filed 10-17-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-193-C]

Golden Oak Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Golden Oak Mining Company, Route 2, Box 177, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Black Oak No. 8 Mine (I.D. No. 15-16392) located in Knott County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of cabs or canopies would result in a diminution of safety because the cabs or canopies would limit the equipment operator's visibility, causing the operator to lean out while in motion, exposing himself and others to danger. The cabs or canopies would create cramped conditions causing unnecessary fatigue resulting in reduced alertness and safety. Limited operating space would hinder the operators escape from the equipment in case of an emergency and the cabs or canopies would hit the roof bolt plates and damage the roof support.

3. For these reasons, petitioner requests a modification or the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulation and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 17, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 11, 1988.

[FR Doc. 88-24054 Filed 10-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-176-C]

Greenwich Collieries; Petition for Modification of Application of Mandatory Safety Standard

Greenwich Collieries, P.O. Box 367, Ebensburg, Pennsylvania 15931, has filed a petition to modify the application of 30 CFR 75.1711-1 (sealing of shaft openings) to its No. 1 Mine (I.D. No. 36-02405) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that caps be equipped with a vent pipe at least 2 inches in diameter extending for a distance of at least 15 feet above the surface of the shaft.

2. As an alternate method, petitioner proposes to install three vent pipes six inches in diameter, extending for a distance of eight feet above the surface of three shafts.

3. In support of this request, petitioner states that—

(a) An eight-foot vent pipe would be installed on each shaft cap;

(b) The vent pipes would be Schedule 40 PVC pipe, which exceed one-quarter inch in wall thickness and six inches in diameter;

(c) The pipes would be attached to the steel caps on the shafts by means of a steel mounting bracket, and would be protected at its mouth by a fine mesh screen;

(d) Each shaft would be completely enclosed by a heavy gauge chain link fence; and

(e) Access to the shaft areas would be blocked by existing locked gates, and the areas would be posted with "No Trespassing" signs.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 17, 1988. Copies of the petition are available for inspection at that address.

Date: October 11, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-24055 Filed 10-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-186-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 200 Public Square, Room 7-D, Cleveland, Ohio 44114 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 25 (I.D. No. 11-20392) located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. The longwall mining equipment in use at the mine is powered by 950-volt, a.c. electricity. The circuit breakers and cables used in this medium-voltage system are at the practical limits of safe and efficient operation.

3. This equipment is subject to unacceptable voltage drops across the system which causes a decrease in the working torques of the drive motors and leads to excessive strain on equipment and high-current loads in the electric circuitry. In order to maintain compliance with overcurrent protection in low- or medium voltage systems, it is necessary to split the loads and increase the number of cables. This doubles the amount of cable handling and electrical connections that has to be done and results in a diminution of safety to miners.

4. As an alternate method, petitioner proposes that throughout the mine beginning with Panel No. 14, 2400-volt a.c. electricity would be used to power longwall mining equipment inby the last open crosscut and within 150 feet of gob areas with specific conditions as outlined in the petition.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 17, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 11, 1988.

[FR Doc. 88-24056 Filed 10-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-179-C]

Quarto Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Quarto Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Powhatan No. 4 Mine (I.D. No. 33-01157) located in Monroe County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures of areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that a power distribution room and an air compressor room are located near the underground rotary dump. Deteriorating roof conditions have prevented the rectifier from properly being ventilated to the return. Even if ventilation tubing could be installed to the return, it would be ineffective due to the extreme distance. Rehabilitating these areas leading to the return would pose unnecessary risks to the miners.

3. As an alternate method, petitioner proposes that—

(a) The two electrical installations would be housed in a fireproof structure, equipped with automatically closing fire doors activated by thermal devices with an activation temperature not greater than 165 degrees Fahrenheit. Such fire doors would be designed to enclose all associated electric components in a reasonably airtight enclosure in case of a fire or excessive temperature;

(b) A signal, activated by the heat sensors, would be located so that it can be seen or heard by a responsible person;

(c) The electric equipment would be protected with thermal devices, or equivalent, designed and installed to interrupt all power circuits supplying electric equipment within the fireproof structure;

(d) A suitable automatic fire suppression system would be installed and maintained in the fireproof structure in accordance with applicable provisions;

(e) Ground-phase devices protecting three-phase circuits would be adjusted to remove incoming power at not more than 40 percent of the available ground fault current; and

(f) Only the power distribution installation room would have a fan which would cool the area to help dissipate the heat generated by the electrics.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 17, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 11, 1988.

[FR Doc. 88-24057 Filed 10-17-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-191-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley

wires, trolley feeder wires, high-voltage cables and transformers) to its No. 4 Mine (I.D. No. 01–01247) location in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to use a.c. high-voltage cables to supply power to permissible longwall face equipment on a mine wide basis with specific equipment and conditions as outlined in the petition.

3. In order to safely and efficiently mine the coal seam, a 500 horsepower shearing machine, an approximately 1,000 horsepower face conveyor and a stage loader with a crusher unit driven by 150 horsepower motors would be used.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standards.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 17, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 11, 1988.

[FR Doc. 24058 Filed 10–17–88; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 730, from 9:00 a.m. to 5:00 p.m. on Tuesday, Novemberf 22, 1988.

The purpose of the meeting is to review applications for Certficates of Indemnity submitted to the Federal Council on the Arts and Humanities for exhibitions beginning after January 1, 1988.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Stephen J. McCleary, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 88–23967 Filed 10–17–88; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel; Cancellation of Panel Meeting

The Humanities panel meeting scheduled for October 27–28, 1988, to be held at 1100 Pennsylvania Ave., NW., Room 430, Washington, DC 20506, published in the **Federal Register** on October 4, 1988 at page 38992 has been cancelled. The panel meeting was to review applications submitted to Humanities Projects in Libraries Program, submitted to the Division of General Programs, for projects beginning after September 1, 1989.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 88–23966 Filed 10–17–88; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are 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. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552 of Title 5, United States Code.

1. *Date:* October 31–November 1, 1988.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted to Public Humanities Projects program during the September 1988 deadline, submitted to the Division of General Programs, for projects after April 1, 1989.

2. *Date:* November 3–4, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after April 1, 1989.

3. *Date:* November 4, 1988.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Translations applications in Asian Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1989.

4. *Date:* November 7, 1988.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.

Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after April 1, 1989.

5. *Date:* November 7, 1988.

Time: 9:00 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review Translation applications in African, Asian and American Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1989.

6. *Date:* November 8, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Conferences Category, submitted to the Division of Research Programs, for projects beginning after April 1, 1989.

7. *Date:* November 9, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after April 1, 1989.

8. *Date:* November 9, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Conferences Category, submitted to the Division of Research Programs, for projects beginning after April 1, 1989.

9. *Date:* November 9–10, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after April 1, 1989.

10. *Date:* November 14–15, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after April 1, 1989.

11. *Date:* November 15, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications for Higher Education Programs, submitted to the Division of Education Programs, for projects beginnng after April 1, 1989.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 88–23968 Filed 10–17–88; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–538]

Environmental Assessment and Finding of No Significant Impact Regarding Termination of Facility Operating License No. R–127; Memphis State University, AGN–201 Reactor Facility

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an Order terminating Facility Operating License No. R–127 for the Memphis State University AGN–201 Reactor Facility located in Memphis, Tennessee in accordance with the application dated November 10, 1986, as supplemented.

Environmental Assessment

Identification of Proposed Action

By application dated November 10, 1986, as supplemented, Memphis State University requested authorization to decontaminate and dismantle its AGN–201 Reactor Facility, to dispose of its component parts in accordance with the proposed dismantling plan, and to terminate Facility Operating License No. R–127. Following an "Order Authorizing Dismantling of Facility and Disposition of Component Parts," dated January 26, 1988, Memphis State University completed the dismantlement and submitted a final survey report on March 24, 1988, as supplemented. Region II conducted a final survey during June and August 1988. This survey is documented in Region II Inspection Report No. 50–538/88–01. The staff agrees with the analysis and the conclusion in the Memphis State University final survey report, as amended.

Need for Proposed Action

In order to release the facility for unrestricted access and use, Facility Operating License No. R–127 must be terminated.

Environmental Impact of License Termination

The Memphis State University indicates that the residual contamination and dose exposures are less than the requirements of Regulatory Guide 1.86, Table I and the maximum exposure of 5 microR/hr above background at one meter. These measurements have been verified by the NRC. The NRC finds that since these criteria have been met there is no significant impact on the environment and the facility can be released for unrestricted use.

Alternatives to the Proposed Action

Since the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative to termination of Facility Operating License No. R–127.

Agencies and Persons Consulted

No outside agencies or persons were consulted in relation to this action.

Finding of No Significant Impact

The Commission has determined not to prepare an Environmental Impact Statement for the proposed action. Based upon the foregoing Environmental Assessment, the Commission has concluded that the issuance of the Order will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Facility Operating License No. R–127, dated November 10, 1986, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 12th day of October 1988.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Acting Director, Standardization and Non-Power Reactor Project Directorate Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–23980 Filed 10–17–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–19836, License No. 35–21144–01, EA No. 88–189]

Penn Inspection Co.; Order Modifying License, Effective Immediately and Order to Show Cause

I

Penn Inspection Company (licensee) Route 3, Box 311, Chickasha, OK, is the holder of byproduct material license No. 35–21144–01 (license) issued by the NRC, which authorizes the licensee to possess iridium-192, cobalt-60, and cesium-137 in sealed sources for use in industrial radiography. The license, scheduled to expire on September 30, 1987, remains in effect pending NRC action on a license renewal application dated August 27, 1987.

II

On May 28, 1988, a physician at Grady Memorial Hospital in Chickasha, Oklahoma, reported to NRC Region IV

that an individual had sought medical evaluation on that day for a potential overexposure to radiation. The individual Michael L. Moon (radiographer), claimed that he had been performing industrial radiography work for Penn Inspection Company and that he had used his hands to free a radioactive source that had become stuck in an unshielded position, thus exposing himself to a potentially high radiation exposure. NRC immediately contacted the licensee to discuss this information. Based on this telephone conversation, the licensee agreed to suspend licensed radiographic operations in areas of NRC jurisdiction until NRC concurred on resumption of these activities. This action was documented in a Confirmation of Action letter dated May 31, 1988. On May 31, 1988, the NRC conducted a special inspection of activities being carried out by the licensee under the terms of its NRC license prompted by the May 28, 1988 reported potential overexposure. It was later concluded, based on reenactments of the incident during the inspection that the radiographer described and based on subsequent medical evaluation, that it was unlikely that the radiographer had been subjected to a radiation exposure in excess of NRC-established limits. However, the inspection disclosed that on May 12, 1988, the date of the incident, several of the radiographer's actions were in violation of NRC requirements and, on the whole, were an indication that the radiographer was not adequately knowledgeable of NRC regulations and license requirements. Specifically, the inspection disclosed that on May 12, 1988, the radiographer failed to use personnel radiation monitoring devices while performing industrial radiography, failed to maintain access to and to follow Penn Inspection Company's Operating and Emergency Procedures, and failed to straighten the source transfer tube as required before making an initial radiographic exposure. Each of these failures is a violation of NRC requirements and each contributed to making the incident on May 12 a serious event in terms of its potential for a radiation overexposure. Following this incident, the radiographer did not report the seriousness of the incident to either company officials or the NRC. As a result of the inspection, and discussions with a licensee's representative on June 2, 1988, the NRC allowed resumption of licensed radiographic operations based on licensee's agreement to not allow the radiographer to perform or assist in those operations and to cooperate with the NRC specified physician by providing the radiographer for cytogenetic studies related to the potential overexposure. This agreement was documented in a Confirmation of Action letter dated June 3, 1988.

III

After consideration of the facts, the NRC has concluded that the radiographer's actions on May 12 displayed a careless disregard for NRC requirements important to radiation safety. In addition, his failure to report the seriousness of this incident, either to officials of the Penn Inspection Company or to the NRC, was irresponsible. In total, Mr. Moon did not display the understanding of NRC regulations and license requirements that is required for radiographers by 10 CFR Part 34. A "radiographer" as defined in § 34.2 of 10 CFR Part 34 is any individual who performs or who, in attendance at the site where the sealed source or sources are being used, personally supervises radiographic operations and who is responsible to the licensee for assuring compliance with the requirements of the Commission's regulations and conditions of the license. Based on Mr. Moon's actions as stated above, there is no longer reasonable assurance that he can be relied upon to comply with Commission requirements concerning his use of licensed material during radiographic operations or personally supervising the use of licensed material in radiographic operations. Therefore, I have determined pursuant to 10 CFR 2.202 that the public health, safety and interest require that the license should be modified, as described below, effective immediately, and that no prior notice is required.

IV

Accordingly pursuant to sections 81, 161(b) and (i) of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR 2.202 and Parts 30 and 34, *It is hereby ordered, effective immediately that:*

NRC License No. 35–21144–01 is modified to prohibit Mr. Michael L. Moon from acting as a radiographer without specific NRC approval.

The Regional Administrator, Region IV, or his designee may relax or rescind any of the above provisions for good cause.

V

The licensee or Mr. Moon may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 30 days of the date of this Order which sets forth the matters of fact and law on which the licensee or Mr. Moon relies. The licensee or Mr. Moon may answer as provided in 10 CFR 2.202(d) by consenting to this Order. If the licensee fails to answer within the specified time or consents to this Order, this Order shall be final unless Mr. Moon shows cause why the Order should not have been issued or requests a hearing.

VI

The licensee or any other person adversely affected by this Order may within 30 days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Enforcement, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d).

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. An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

In the event the Licensee or any other person requests a hearing as provided above, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Rockville, Maryland, this 6th day of October 1988.

[FR Doc. 88–23982 Filed 10–17–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-443-OL-1 and 50-444-OL-1; ASLBP No. 88-558-01-OLR]

Public Service Co. of New Hampshire, et al., Seabrook Station, Units 1 and 2, Onsite Emergency Planning and Safety Issues; Clarification

This is to clarify that in view of the Commission's amendment to 10 CFR 50.47, 53 FR. 36955 (September 23, 1988), and the Commission's Order dated October 7, 1988 regarding same (CLI-88-08), the onsite Licensing Board, comprised of Sheldon J. Wolfe, Chairman; Jerry Harbour; and Emmeth A. Luebke, has jurisdiction over and shall consider and decide the now full-power notification issue—i.e., the Amended Contention On Notification System For Massachusetts (and certain bases) admitted in the onside Board's Memorandum and Order of June 2, 1988 (unpublished).

The Board comprised of Ivan W. Smith, Chairman; Jerry Harbour; and Gustave A. Linenberger, Jr., and its newly added Alternate Members, John H. Frye, III and James H. Carpenter, will continue to preside in all other proceedings pertaining to offsite emergency planning for the Seabrook Station, which are being heard under Docket Nos. 50-443-OL and 50-444-OL (Offsite Emergency Planning).

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 12th day of October 1988.

[FR Doc. 88-23984 Filed 10-17-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-443-OL and 50-444-OL ASLBP No. 82-471-02-OL]

Public Service Co. of New Hampshire, et al., Seabrook Station, Units 1 and 2, (Offsite Emergency Planning); Notice of Appointment of Alternate Atomic Safety and Licensing Board Members

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and § 2.721 of the Commission's Regulations, as amended, and pursuant to the Statement of Policy on Conduct of Licensing Proceedings, 13 N.R.C. 452 (1981), two Alternate Members are appointed to the Atomic Safety and Licensing Board already establshed to preside in the Offsite Emergency Planning phase of this operating license proceeding.

Public Service Co. of New Hampshire, et. al.

Seabrook Station, Units 1 and 2 (Offsite Emergency Planning) Construction Permit Nos. CPPR-135 and CPPR-136

This action is taken pursuant to 10 CFR 2.721(b) because it is anticipated that it may become necessary, for reasons of panel resource management to reconstitute this Licensing Board in the future.

The Alternate Members of this Licensing Board are:

John H. Frye, III, Alternate Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

James H. Carpenter, Alternate Technical Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Robert M. Lazo,

Acting Chief Adminstrative Judge Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 12th day of October 1988.

[FR Doc. 88-23985 Filed 10-17-88; 8:45 am]

BILLING CODE 7590-9-M

[Docket No. 50-346]

Toledo Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 124 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensee), which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located to Ottawa County, Ohio. The amendment was effective as of the date of its issuance.

The amendment revised the TS's relating to the number of manual initiation pushbuttons required. Specifically, Technical Specification 3.3.2.2, Table 3.3-11, "Steam and Feedwater Rupture Control System" (SFRCS), is revised to reflect a design modification that simplifies manual initiation of SFRCS.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 3, 1988 (53 FR 15757). No request for hearing or petition for leave to intervene was filed following this notice.

For further details with respect to this action see (1) the application for amendment dated January 30, 1988 (2) Amendment No. 124 to License No. NPF-3, (3) the Commission's letter dated October 5, 1988 and (4) the Environmental Assessment dated September 23, 1988 (53 FR 38128). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 5th day of October 1988.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Project Manager, Project Directorate III-3, Division of Reactor Projects III, IV, V and Special Project.

[FR Doc. 88-23981 Filed 10-17-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Review of Timex Corporation Petition and Public Hearings; Correction

In a document published in the Federal Register on Friday, October 7, 1988, pages 39576-39578, FR Doc. 88-23176; the following paragraphs were omitted. On page No. 39576, after the third paragraph in the third column, please insert the following text:

2. *Communications.* All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 517, Washington, DC 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395-6971. Questions may be directed to any member of the staff of the GSP Information Center.

II. Deadline for Receipt of Requests To Participate in the Public Hearings

The GSP Subcommittee of the TPSC invites submissions in support of or in opposition to the petition listed in this notice. All such submissions should conform to 15 CFR Part 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3). All submissions should identify the product of interest in terms of the Harmonized System tariff nomenclature.

Hearings will be held on November 15–17 beginning at 10:00 a.m. in the Commerce Department auditorium, 14th and Constitution Avenue, NW., Washington, DC. The hearings will be open to the public and a transcript of the hearings will be made available for public inspection or can be purchased from the reporting company.

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 88–23939 Filed 10–17–88; 8:45 am]

BILLING CODE 3190-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Approval of Special Withdrawal Liability Rules: Steamship Trade Association of Baltimore, Inc.—International Longshoremen's Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation ("PBGC") has received a request from the Steamship Trade Association of Baltimore, Inc.—International Longshoremen's Association Pension Plan for approval of plan amendments providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, the PBGC may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules, if the PBGC determines that the rules apply to an industry in which the characteristics that would make use of the special rules appropriate are clearly shown, and that, in each instance, the rule would not pose a significant risk to the PBGC. The PBGC has prescribed such regulations at 29 CFR Part 2645. Pursuant to those regulations, as soon as practicable after receiving a request for approval of a plan amendment containing all the required information, the PBGC shall publish a notice of the pendency of the request in the Federal Register, containing a summary of the request and inviting the submission of written comments. This notice is to advise interested persons of a request for approval of special withdrawal liability rules and to invite interested persons to submit written comments on it, pursuant to 29 CFR 2645.4(b).

DATES: Comments must be submitted on or before December 2, 1988.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, Attn: Deborah C. Murphy. The complete request for approval is available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Any comments received will also be made available to the public at the above address at those times.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(a) of the Employee Retirement Income Security Act of 1974 (ERISA), a complete withdrawal from a multiemployer plan occurs when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. Under section 4205, a partial withdrawal occurs, generally, when: (a) An employer reduces contributions by seventy percent in each of three consecutive years; or, (b) permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location; or, (c) permanently ceases to have an obligation to contribute for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased. Thus, the general rules on complete and partial withdrawal identify events that normally result in a loss to the plan's contribution base.

However, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute does not normally weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

For construction industry plans and employers, ERISA section 4203(b) provides a special complete withdrawal rule. Under section 4203(b)(2), a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan and either continues to perform previously covered work in the jurisdiction of the collective bargaining agreement, or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In contrast, the general definition of complete withdrawal in section 4203(a) defines a permanent cessation of the obligation to contribute as a withdrawal, regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. ERISA section 4208(d)(1) provides that an employer to which section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required." Under ERISA section 4208(d)(2), an employer to which section 4203(c) (relating to the entertainment industry) applies has no liability for a partial withdrawal "except under the conditions and to the extent prescribed by the [Pension Benefit Guaranty Corporation] by regulation."

ERISA section 4203(f) provides that the PBGC may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in section 4203(b) and (c) for the construction and entertainment industries. Section 4203(f)(2) provides that such regulations shall permit the use of special withdrawal liability rules only in

industries (or portions thereof) in which, as determined by the PBGC, the characteristics that would make use of such rules appropriate are clearly shown, and only if the PBGC determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the PBGC under Title IV of ERISA. Section 4208(e)(3) provides that the PBGC shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under conditions, other than those described in sections 4208(e) (1) and (2), subject to the approval of the PBGC based on its determination that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

The PBGC's regulations on Extension of Special Withdrawal Liability Rules (29 CFR Part 2645) prescribed procedures whereby a multiemployer plan may, pursuant to sections 4203(f) and 4208(e)(3), request the PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. Under 29 CFR 2645.2(a), a complete withdrawal rule adopted pursuant to Part 2645 must be similar to the rules for the construction and entertainment industries described in section 4203 (b) and (c) of ERISA. A partial withdrawal liability rule adopted pursuant to Part 2645 must be consistent with the complete withdrawal rule adopted by the plan. Pursuant to 29 CFR 2645.2(b), a plan amendment adopted pursuant to Part 2645 may cover an entire industry or industries, or may be limited to a segment of an industry, and may apply to cessations of the obligation to contribute that occurred prior to the adoption of the amendment.

Each request for approval of a plan amendment establishing special withdrawal liability rules must contain the information specified in § 2645.3(d). In acting on such a request, 29 CFR 2645.4(a) provides that the PBGC shall approve a plan amendment providing for the application of special withdrawal liability rules upon a determination by the PBGC that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate, and

(B) Will not pose a significant risk to the insurance system.

Finally, § 2645.4(b) requires the PBGC to publish a notice of the pendency of a request for approval of a plan amendment containing all the information required under § 2645.3 in the Federal Register, and to provide interested parties with an opportunity to comment on the request.

The Request

The PBGC has received a request from the Steamship Trade Association of Baltimore, Inc.—International Longshoremen's Association Pension Plan ("Plan") for approval of a Plan amendment providing for special withdrawal liability rules. The request sets forth the following information.

The Plan

The Plan is maintained pursuant to collective bargaining agreements between the International Longshoremen's Association ("ILA") and the Steamship Trade Association of Baltimore, Inc. ("STA"). The Plan covers employees employed by the STA and its members and former members and engaged in work covered by the agreements. The agreements cover rigging up, loading and unloading ships; tallying and checking cargoes being loaded and unloaded; shifting and securing cargoes; handling baggage, mail and stores; lashing, container and chassis repairs; handling lines in the docking and undocking of ships; and work performed by ship ceilers, grain ceilers, cattle fitters, carpenters aboard vessels, timekeepers, foremen, checkers, freight handlers, cargo space cleaners, bilge cleaners, and markers, in the Port of Baltimore, Maryland, and vicinity. The employees are employed by shipping lines, agents for shipping lines, stevedoring companies, terminal employers, and allied service employers in the Port of Baltimore. The Plan also covers union representatives of the ILA and individuals employed by the Plan and other STA-ILA jointly trusteed funds in the Port of Baltimore.

Approximately 25 employers contribute to the Plan. Contributions are based on man-hours worked, at a rate set in the collective bargaining agreement (see below). The collective bargaining agreements also require employers to pay container royalties (for containers loaded or unloaded away from the pier by non-ILA labor) and sugar royalties (for the unloading of raw bulk sugar). During the Plan year ended September 30, 1986 ("PYE 86"), the Plan received $13,894,583 in employer contributions, $3,249,751 in container royalties, and $151,218 in sugar royalties.

The Plan currently provides a monthly benefit of $47.30 per year of service, with a maximum benefit of $1,892 per month. The benefit formula has recently been increased. Benefits paid in PYE 86 totaled $13,163,841. As of October 1, 1986, the Plan covered 2,280 active participants, 1,396 retired and terminated vested participants, and 603 beneficiaries of deceased participants.

As of October 1, 1986, Plan assets had a market value of $301,963,655, equal to 143 percent of the present value of vested benefits under the Plan ($210,734,300), and up by 110 percent (from $143,825,442) since October 1, 1982. For PYE 86, the Plan received $17,295,552 in contributions and container and sugar royalties, and had net dividend and interest income of $21,129,637. It paid benefits totaling $13,163,841, and administrative expenses in the amount of $447,268.

The Plan's unfunded actuarial accrued liabilities ($88,900, as of October 1, 1986) have decreased in recent years, while the credit balances to its minimum funding standard account have increased ($119,911,500 as of October 1, 1986). Based on expected contributions, the Plan expects to satisfy and exceed minimum funding requirements for the next five years. The Plan attributes its favorable financial condition to productivity gains in the shipping industry, as a result of containerization and mechanization.

Industry Characteristics[1]

Trade patterns in the shipping industry have shifted away from northern Europe—the historical strength of the Port of Baltimore and other north Atlantic ports—to Asia. Competition has increased as a result of deregulation and overcapacity, and even advantageous locations, like Baltimore, have been affected. Land transportation has been substituted for water transportation, with many Asian goods reaching Atlantic Coast markets via rail or truck links from Pacific Coast ports. In the late 1970's, the north Atlantic ports began to lose market share to Pacific ports, while south Atlantic ports have grown over the last ten years. There is aggressive competition among both United States and Canadian ports for Port of Baltimore cargoes.

North Atlantic ports as a group lost almost ten percent of the total United States market between 1982 and 1985. During that time, Baltimore's share of the market for foreign general cargo moving between the midwest and north Atlantic ports declined from 44 to 36 percent, its share of imports dropped from 39 to 36 percent, and its share of exports from 50 to 36 percent. Total tonnage of foreign commerce (bulk and

[1] The PBGC has made no independent investigation of industry characteristics, and the following description is based on information supplied by the plan.

general cargo) declined 31 percent in the Port of Baltimore between 1980 and 1985. Most of the drop was in bulk cargo.

The Maryland Port Administration has undertaken a number of programs to keep the Port of Baltimore competitive. Terminal tariffs have been reduced. Reductions in rail shipping rates between Baltimore and key interior markets have been arranged, and provision has been made for double-stacking of shipping containers on rail shipments between Baltimore and Chicago. Long-term leases have been entered into with shipping lines and terminal operators, committing them to certain cargo volumes over a period of years. Streamlined customs clearance procedures and facilities have been arranged. Channel improvements have been made, and new terminal facilities are being developed. Sales and advertising programs have been initiated. In light of these developments, the Plan believes that the Port of Baltimore will continue to fill the important role in maritime commerce that it has historically played.

Most of the shipping activity in the Port of Baltimore relating to the loading and unloading of commercial cargo is covered by collective bargaining agreements between the ILA and the STA. These agreements cover all of the shipping lines and most of the agents for the shipping lines, stevedoring companies, and terminal employers doing business in the area. The commercial activity not covered by the agreements is limited to a few occupations such as waterfront guards. Most of the emplyees working in the area for the covered employers are members of the ILA.

The work covered by the Plan involves the transfer of import cargoes from ships in the Port of Baltimore to trains and trucks that carry the cagoes inland, and of export cargoes from trains and trucks to ships in the port. The work therefore is local to the Port of Baltimore.

Most of the work covered by the Plan depands on the presence of ships in the Port of Baltimore to be loaded or unloaded. The ships arrive irregularly. The STA and ILA jointly maintain a hiring hall system for dispatching workers to particular jobs with particular employers each day. Employees may work for the same employer for several days until a particular job is finished, but usually do not remain steadily with the same employer. Work is typically done on a project-by-project basis, a project being, for example, the unloading of a single ship. There is a high degree of employee mobility and of fluctuation in the employers' covered work, and employment is intermittent in nature.

A small percentage of employees have special skills that make them constantly in demand. These employees have more permanent relationships with individual employers, although cross-overs to other employers do sometimes occur when the flow of shipping is such that the regular employer is not fully occupied. Employers of such employees typically contract to prform work for other covered employers.

Finally, a few employees work for the ILA, the Plan itself, and other jointly-trusted ILA-STA funds. These employees work steadily for a single employer. However, the employers—the ILA, the Plan and other funds—are unlikely to cease Plan contributions except as part of a mass withdrawal of all employers.

The Plan has had a relatively stable population of contributing employers. Within the last ten years, only a few employers have left the Plan, and only a few more have entered the Plan.

Based on the charcteristics of the industry covered by the Plan, contends that—

[a]n employers' withdrawal should not affect the aggregate level of work in or the amount of tonnage flowing through the Port of Baltimore

and that—

[t]he Plan's contribution base should be unaffected by any withdrawal.

The Plan also contends that—

[e]ven if a withdrawal were to affect the aggregate level of work or the amount of tonnage in the Port of Baltimore shipping industry, the Plan's financial condition [discussed below] assures that there will be no risk to the insurance system.

Actuarial Data

As part of the request, the Plan submitted an actuarial valuation report and other financial data. The results are summiarized in the table below.

Plan costs for minimum funding purposes are determined using the entry age normal method. The normal costs reported by the 1986 valuation was significantly lower than that reported for 1984. It is likely that the decrease in the number of active participants between 1984 and 1986 was largely responsible for the decrease in normal cost.

The ratio of assets to vested liabilities declined from 1982 to 1984 and increased from 1984 to 1986. The decline from 1982 to 1984 resulted in large measure from significant beneft increases.

Contributions for the Plan are bargained for on a two year cycle. The hourly contribution rate increased from $3.25 to $3.75 per hour during the period from 1981 to 1986.

The Plan's benefit structure provides for normal retirement at age 62, but a participant may elect to begin receiving accurued benefits as early as age 55 with a 6 percent per year reduction from age 62 early benefit commencement, or at any age with 25 years of pension service. The monthly benefit is $47.30 per year of service. The monthly benefit per year of service has increased steadily from $25 since 1981. Plan amendments since October 1, 1981, have increased the actuarial liability by $136 million.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1] STEAMSHIP TRADE ASSOCIATION OF BALTIMORE, INC.—INTERNATIONAL LONGSHOREMEN'S ASSOCIATION PENSION PLAN

	Oct. 19, 1986	Oct. 19, 1984	Oct. 19, 1982
A. Number of participants:			
1. Active and terminated vested	2,369	2,549	2,699
2. Retirees and beneficiaries	1,896	1,873	1,773
B. Annual contributions and benefits ($000s) [2]			
1. Employer contributions [3]	13,815	16,961	15,495
2. Benefits paid	(*)	12,692	8,824
C. Plan assets and liabilities ($000s):			
1. Plan assets	301,964	208,431	143,825
2. Liability for vested benefits [5]			
a. Retirees and beneficiaries	107,468	99,209	68,319
b. Other participants	103,266	120,219	62,256

SUMMARY OF ACTUARIAL VALUATION RESULTS [1] STEAMSHIP TRADE ASSOCIATION OF BALTIMORE, INC.—INTERNATIONAL LONGSHOREMEN'S ASSOCIATION PENSION PLAN—Continued

	Oct. 19, 1986	Oct. 19, 1984	Oct. 19, 1982
3. 1 ÷ 2c (per cent)	143.3	95.0	110.2
4. Normal cost	4,107	4,796	3,057
5. Unfunded actuarial liability [6]	89	56,865	14,223

[1] Figures for 1986 taken from actuarial report; other figures from Forms 5500.
[2] For the plan year following the valuation date.
[3] Estimated.
[4] Not available.
[5] Assumed interest rate is 6.5 percent for 1986 and 6 percent for 1984 and 1982.
[6] Entry age normal method with assumed interest at 6.5 percent for 1986 and 6 percent for 1984 and 1982.

Special Withdrawal Liability Rules

The Plan has adopted an amendment prescribing special withdrawal liability rules. The amendment provides that the special rules shall be effective for withdrawals occurring on and after June 1, 1988, but shall be effective "only with and at the time of approval of PBGC." If the amendment is approved, the Plan's complete and partial withdrawal rules will read as follows:

Section 8.02 Complete Withdrawal Defined.

(a) A complete withdrawal occurs under the same conditions and as a result of the same events as it does under ERISA, except that a complete withdrawal from the Plan by an Employer shall not occur merely because the Employer ceases to have an obligation to contribute to the Fund unless the Employer either:

(1) Continues to perform work in the Port of Baltimore of the type for which contributions were previously required in accordance with the Collective Bargaining Agreement under which the Plan is maintained, or

(2) Resumes such work within five years after the date the Employer's contribution obligation ceases without renewing or becoming bound by the obligation to contribute to the Fund at that time.

(b) If a complete withdrawal of an Employer occurs, the date of such complete withdrawal is the date the Employer's obligation to contribute permanently ceases.

(c) Notwithstanding any other provision of this Section, if all or substantially all contributing Employers withdraw from the Plan pursuant to an agreement or arrangement, as determined under ERISA sections 4209 and 4219 (c)(1)(D), the withdrawal liability of each such Employer shall be determined in accordance with those ERISA sections.

Section 8.08 Partial Withdrawal.

(a) A partial withdrawal occurs under the same conditions and as a result of the same events as it does under ERISA, except that no partial withdrawal shall be deemed to occur with respect to an Employer, if the Employer continues to have an obligation to contribute to the Fund for all work of the type for which contributions are required in accordance with the Collective Bargaining Agreement under which the Plan is maintained for a period of five years after the year of such conditions or events.

(b) If a partial withdrawal of an Employer occurs, the date of such partial withdrawal is the last day of the calendar year during which the partial withdrawal occurs.

Section 8.11 Miscellaneous.

Any provisions of this Plan to the contrary notwithstanding, the provisions of Section 8.02 (complete withdrawal) and 8.08 (partial withdrawal) above shall apply only to those Employers which are subject to the provisions of the agreement between the Steamship Trade Association of Baltimore, Inc. acting on behalf of its members, and the International Longshoremen's Association (AFL–CIO) acting on behalf of its Locals 333, 921, 953, 1355 and 1429 relating to work done in the Port of Baltimore and Vicinity and which Employers, in accordance with said Agreements, are obliged to make contributions to this Fund for persons who perform the various categories of longshoring and associated work referred to in the above agreements and to persons who are the union officials in the Port of Baltimore of the ILA and of the locals referred to above and for persons who are employed by this Fund and other STA/ILA Funds in the Port of Baltimore.

Categories of longshore and associated work include the following: Rigging up and shifting of cargoes, loading and unloading cargoes of deepwater ships, handling of baggage, mail and stores, lashing of cargoes, loading and unloading of grain cargoes, tallying and checking cargoes during loading and unloading of deepwater ships, timekeeping with respect to cargo gangs, woodwork pertaining to the fitting of ships, dustproofing of cargo and other parts of ship, grain fittings, erection of steel stanchions for grain, binding of cargo, securing of cargo, receiving and delivery clerking pertaining to the receiving, delivering and marking of freight from and to all vehicles, power boats, lighters, barges and railroad cars, ship cargo space and bilge cleaners, cargo marking, container and chassis repairs, handling and lines in connection with the docking and undocking of ships.

The PBGC notes that the sale of assets provisions of ERISA section 4204 apply to withdrawals from the Plan.

Notice

A notice of the adoption of the amendment by the Plan and of this request for PBGC approval has been mailed to all employers who have an obligation to contribute under the Plan and to the employee organization representing employees covered under the Plan.

Comments

All interested persons are invited to submit written comments concerning the pending request to the PBGC at the above address, on or before December 2, 1988. All comments will be made a part of the record. Comments received, as well as the application for approval of the plan amendments, will be available for public inspection at the address set forth above.

Issued at Washington, DC, on this 29th day of September, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88–23986 Filed 10–17–88; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26173; File No. SR-NASD-88-42]

Self-Regulatory Organizations; Temporary Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Minimum Exposure Limit of SOES Market Makers

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 21, 1988, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing a pilot system change to the Small Order Execution System ("SOES") to permit a SOES market maker to manually override the system for the day to reduce the firm's minimum exposure limit in SOES from five times the maximum order size for that security down to the respective maximum order size itself (*eg.*, 1,000, 500 or 200 shares). The manual override must be performed as to each security for which the market maker wants a smaller limit. The system change will be in effect only for a six month period from the date of approval by the Commission.

In the absence of manual override, SOES will continue to automatically establish a minimum exposure limit of five times the order size for all SOES securities and market makers will continue to be able to increase their exposure limit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the newly amended SOES Rules, market makers in a NASDAQ National Market System (NASDAQ/NMS) security are required to participate in SOES and are subject to a minimum exposure limit equal to five times the maximum order size (e.g. 1,000, 500 or 200 shares). *See* File No. SR-NASD-88-1, Securities Exchange Act Release No. 25791 (June 9, 1988). Recently, it has come to the attention of the NASD that an increasing number of SOES Order Entry Firms and their customers have been engaging in trading abuses of the SOES service which result in multiple executions against quotes by one or more SOES market makers prior to the market makers being able to adjust their quotes to reflect the true market. *See e.g.* File No. SR-NASD-88-37, dated August 25, 1988. This can occur during a market where quotations in a security are changing and where the company has released material news, but trading has not been halted in its security. This abusive activity is resulting in substantial lost revenue incurred daily by SOES market makers who are limited in their ability to withdraw from SOES under the recently amended SOES Rules.

The NASD is proposing a temporary pilot system change for a six-month period to SOES to permit SOES market makers to avoid receiving multiple 1,000 share SOES executions before the market maker can adjust its quotations in SOES. The proposed rule change would permit a SOES market maker to manually override the system and elect to reduce its minimum exposure limit in SOES from five times the maximum order size for that security down to the respective tier size itself (*e.g.* 1,000, 500 or 200 shares). Once that limit is exhausted through SOES executions, the market maker's quotations will be suspended and the firm will be given five minutes to update its quotations or its exposure in SOES. Any time a market maker changes its quotes during the trading day, its minimum exposure will be restored to five times the tier size of the security. Under the proposed temporary rule change, however, the market maker will be able to immediately reduce that exposure back to the tier size itself. Market makers will still retain the ability to set a larger exposure limit in order to reduce the likelihood of having their quotes removed from the NASDAQ display. The NASD is proposing that the pilot system change be in effect for a six month period from the date of approval by the Commission. The NASD believes this temporary system change will give market makers greater flexibility in responding, on a stock-by-stock basis, to perceived abuses of SOES by SOES Order Entry Firms.[1]

Because the proposed temporary rule change will result in the elimination of abusive trading penalties in connection with the operations of SOES, the NASD believes that the proposed rule change is consistent with section 15A(b)(6) under the Act which mandates, in pertinent part, that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, facilitate transactions in securities and "to remove impediments to and perfect the mechanism of a free and open market and a national market system * * *"

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Association requests the Commission to find good cause pursuant to section 19(b)(2) for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register**. As indicated above, a number of SOES Order Entry Firms appear to be routinely engaging in trading abuses of the SOES service. These abuses result in substantial lost revenue incurred daily by SOES market makers who are limited in their ability to withdraw from SOES under the recently amended SOES rules. The NASD is concerned that, notwithstanding the penalties for unexcused withdrawal, the increase in abusive trading practices in SOES will

[1] The NASD has undertaken to compile certain statistics to compare SOES market operations prior to adoption of the rule change with operations three months afterwards. (*See* letter from Suzanne Rothwell, Associate General Counsel, NASD, to Katherine A. England, Branch Chief, OTC Branch, dated September 28, 1988.)

result in a substantial number of SOES market makers electing to withdraw from the system, with a consequential decrease in the depth and liquidity of the SOES market.

Because (1) the Association believes the proposed rule change is essential to the efficient operation and regulation of the system; (2) the change to minimum exposure limit constitutes a system change to the SOES service that the market maker may or may not elect to apply to its SOES trades, and (3) the proposed system change will only be in effect for six months, the NASD requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the **Federal Register.**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval and the elimination of trading abuses of SOES will benefit public investors by assuring that SOES market makers have the opportunity to adjust their quotations with an order exposure limit of less than five times the maximum order size. The Commission also notes that the proposed rule change is temporary and that SOES market makers may elect either to continue to establish a minimum exposure limit of five times the order size for the security or to reduce the exposure limit to a smaller size down to the maximum order size itself. Therefore, the Commission believes that the benefits of approval of this temporary rule change outweigh any potential adverse effects to the commentators or other market participants during the period of the rule change's effectiveness.

The NASD has informed the Commission that it will not be able to implement the system change until October 14, 1988.[2] Therefore, the Commission has determined and the NASD has agreed, that the proposed rule change will become effective on October 14, 1988 and shall remain in effect for six months from the date.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR–NASD–88–42 and should be submitted by November 8, 1988.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved effective October 14, 1988 through April 14, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: October 12, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–24042 Filed 10–17–88; 8:45 am]

BILLING CODE 8010-01-M

[2] This information was provided by Dennis Hensley, Deputy General Counsel, NASD to Katerine England, Branch Chief, SEC in a telephone conversation on October 6, 1988.

[Release No. IC–16594; 812–7113]

Application for Exemption; Baldwin Life Insurance Co., et al.

October 12, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Baldwin Life Insurance Company ("Baldwin"), Baldwin Variable Annuity Account (the "Variable Account") and CNL, Inc. ("CNL") (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2).

Summary of Application: Applicants seek an order to the extent necessary to permit them to issue variable annuity contracts which provide for the deduction of mortality and expense risk charges from the assets of the Variable Account.

Filing Date: The application was filed on September 1, 1988.

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 November 7, 1988. 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.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, Baldwin Life Insurance Company, 315 Park Avenue South, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Ulness, Attorney (202) 272–2026 or Clifford E. Kirsch, Special Counsel (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Baldwin, a stock life insurance company incorporated under New York law on December 18, 1981, is an indirect wholly-owned subsidiary of Leucadia National Corporation, a New York corporation ("Leucadia"). Leucadia is a diversified holding company, the common stock of which is listed on the New York Stock Exchange and the Pacific Stock Exchange.

2. The Variable Account was established under New York law on June 8, 1988, and is registered as a unit investment trust under the Act. The Variable Account was established by Baldwin in connection with the proposed issuance of certain variable annuity contracts (the "Contracts"). The Variable Account will invest exclusively in the Scudder Variable Life Investment Fund (the "Fund").

3. The Contracts are single premium variable deferred annuities which, subject to certain conditions and limitations, allow contract owners to make additional payments of premiums.

The Contracts may be purchased with a minimum initial premium of $10,000.

4. CNL will serve as the principal underwriter for the Contracts. CNL is registered with the SEC under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

5. A charge is made against the value of net assets in each subaccount of the Variable Account to reimburse Baldwin for certain mortality and expense risks assumed under the Contracts and for the costs of administering the Contracts and the Variable Account. The mortality risk borne by Baldwin under the Contracts arises from the contractual obligation to pay death benefits prior to the maturity date and to make periodic annuity payments regardless of how long all annuitants or any individual annuitant may live. The expense risk assumed by Baldwin is that the actual expenses involved in issuing and administering the Contracts will be greater than estimated and therefore will exceed the amount recovered from the contract administration charge and the records maintenance charge.

6. The mortality and expense risk charge will be deducted from the value of net assets in each subaccount on a daily basis in an amount equal to an effective annual rate of .90%. Of that amount, approximately .70% is charged to cover the mortality risk and approximately .20% is charged to cover the expense risk. The rate of this charge is guaranteed not to increase over the life of the Contracts and is applicable only during the period from the effective date to the maturity date.

7. A daily charge is deducted from the value of net assets in each subaccount to cover the cost of administering the Contracts and the Variable Account in an amount equal to an effective annual rate of .40%. In addition, if a Contract has an Accumulated Value of less than $50,000 on a Contract Anniversary, a records maintenance charge of $30 will be deducted from the Accumulated Value on that date. The administration charge and the records maintenance charge represent reimbursement only for the administrative costs expected to be incurred over the life of the contract. Baldwin does not expect or intend to make a profit from these charges. The rates of these charges are guaranteed not to increase over the life of the Contracts.

8. Baldwin does not impose a sales charge at the time a premium is paid under the Contract. However, a contingent deferred sales charge ("Surrender Charge") is imposed on certain partial and full surrenders to cover certain expenses relating to the sale of the Contracts.

9. The Surrender Charge for withdrawal of a premium in the contract year a premium is paid is 6% of such premium. The Surrender Charge decreases by 1% for each additional contract year the premium remains on deposit under the Contract before withdrawal. The amount of any applicable Surrender Charge is calculated on the premiums not previously withdrawn without regard to any increase or decrease in the Accumulated Value. The amount of the Surrender Charge will be calculated as a percentage of each premium paid under the Contract. The applicable Surrender Charge will be determined based upon the date the written request for surrender is received by Baldwin and will be calculated with respect to premiums paid under the Contract on a first-in, first-out basis.

10. Applicants represent that the mortality and expense risk charge is a reasonable charge to compensate Baldwin for the risk that (i) annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts, (ii) the mortality rate of annuitants prior to the maturity date will be greater than anticipated in establishing the death benefit payable under the Contract, and (iii) administrative expenses will be greater than the amounts derived from the contract administration charges, including the records maintenance charge.

11. Baldwin represents that the charge of .90% for mortality and expense risks assumed by Baldwin is within the range of industry practice with respect to comparable annuity products. This representation is based upon Baldwin's analysis of publicly available information about similar industry products, taking into consideration such factors as the current charge levels, existence of charge level guarantees, and guaranteed annuity rates of such contracts. Baldwin represents that, as a further condition for this relief, it will maintain at its administrative offices, and make available to the SEC, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey made to support this representation.

12. Applicants acknowledge that the surrender charge may be insufficient to cover all distribution expenses. Baldwin represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Variable Account and Contract owners. Applicants represent that a memorandum, setting forth the basis for this representation, will be maintained by Baldwin at its administrative offices and will be available to the SEC.

13. Baldwin represents that the Variable Account will invest only in management investment companies which undertake, in the event any such company adopts a plan to finance distribution expenses under Rule 12b-1 under the Act, to have a board of directors, a majority of whom are not interested persons of the investment company formulate and approve any such distribution plan pursuant to the provisions of Rule 12b-1 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-24039 Filed 10-17-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16593; File No. 811-3501]

Application for an Order; Premier Variable Annuity Account

October 12, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Invesment Company Act of 1940 (the "1940 Act").

Applicant: Premier Variable Annuity Account ("Applicant").

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Application: Applicant seeks an order under section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

Filing Date: The application was filed on April 1, 1988 and amended on July 29, 1988, August 15, 1988 and September 12, 1988.

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 request must be received by the SEC by 5:30 p.m., on November 7, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a

hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Premier Variable Annuity Account, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Cindy J. Rose, Financial Analyst (202) 272–2058 or Clifford E. Kirsch, Special Counsel (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. On June 30, 1982, the Applicant filed a notification of registration on Form N–8A and a registration statement Form N–8B–2. On June 30, 1982, the Applicant filed a registration statement on Form S–6 which was made effective on August 12, 1983. No public offering or sales of the Applicant's securities were ever made.

2. The Applicant did not transfer any of its assets to a separate trust within the last 18 months.

3. On December 31, 1987, the Applicant distributed all of its remaining assets to its sole shareholder, Pacific Fidelity Insurance Company.

4. Applicant has no security holders and is not now engaged, nor does it propose to engage, in any business activities other than those necessary for winding up of its affairs. No assets are retained by the Applicant. Applicant is not a party to any litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–24040 Filed 10–17–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16592; (811–3138)]

Application for De-Registration; UBZ Corp.

October 12, 1988.

AGENCY Securities and Exchange Commission ("SEC").

ACTION: Notice of application for de-registration under the Investment Company Act of 1940 ("1940 Act").

Applicant: UBZ Corporation.

Relevant 1940 Act Section: Application filed pursuant to section 8(f) and Rule 8f–1.

Summary of Application: Applicant requests an order declaring that it has ceased to be investment company under the 1940 Act.

Filing Dates: The application was filed on August 26, 1987, and amended on April 15 and August 1, 1988.

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 November 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicant, 43 Victoria Place East, Fort Lee, New Jersey, 07024.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272–3047, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The 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 is registered under the 1940 Act as a closed-end diversified management investment company. Organized under the laws of the State of Delaware, Applicant became registered under the 1940 Act on February 1, 1981, and filed its registration statement pursuant to Section 8(b) of the 1940 Act on or about May 29, 1981. Applicant filed a registration on Form S–1 pursuant to the Securities Act of 1933 on or about April 30, 1968, and commenced its initial public offering on July 16, 1968. Prior to registering under the 1940 Act Applicant was engaged in the business of manufacturing, processing and selling welding equipment and supplies. On December 12, 1980, Applicant sold its operating assets and subsequently registered under the 1940 Act.

2. On May 19, 1987, pursuant to an Agreement and Plan of Reorganization approved by a majority of Applicant's shareholders, Applicant exchanged substantially all of its assets for shares of beneficial interest of Van Kampen Merritt Tax Free Fund, Inc. (File No. 811–4718, "Fund"). Assets with an aggregate value of $11,784,842.72 of Applicant were transferred to the Fund in exchange for $11,784,842.72 Fund shares having an aggregate value of $11,784,842.72. Applicant represents that the exchange of shares was based upon their relative net asset values. Such shares were distributed, pro rata, to Applicant's shareholders of record as of May 18, 1987, as a distribution in partial liquidation of Applicant. Applicant has retained assets sufficient to satisfy its outstanding liabilities, which assets are being held in a liquidating trust. Most of the assets retained by Applicant consist of tax refund receivables and none of such assets have been or will be invested in any securities.

3. A Certificate of Dissolution on behalf of Applicant was submitted to the Secretary of the State of Delaware. Applicant is not a party to any litigation or administrative proceeding and does not propose to engage in any business activities other than those necessary to effectuate the winding-up of its affairs. As soon as all liabilities have been satisfied, distribution of the remaining assets (if any), in complete liquidation, will be made to the beneficial owners of the liquidating trust, namely Applicant's shareholders of record as of May 18, 1987.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–24041 Filed 10–17–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26171; File No. SR–OCC–87–20]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change of the Options Clearing Corp. Relating to Investment in a Wholly-Owned Subsidiary

On November 19, 1987, the Options Clearing Corporation ("OCC") filed a proposed rule change (File No. SR–OCC–87–20), with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to authorize OCC to invest

[1] 15 U.S.C. 78s(b)(1).

excess funds in a wholly-owned subsidiary, International Clearing Systems, Inc. ("ICSI"), to develop data processing and communications services for foreign currency exchange transactions and related collateral and settlement obligations. On March 9, 1988, the Commission published notice of this proposed rule change in the Federal Register to solicit comments from interested persons.[2] No comments were received. OCC filed ICSI's bylaws as an amendment to the proposed rule change on April 27, 1988. This Order approves the proposal for the reasons stated below.

I. Description

a. ICSI's Structure and Relationship to OCC

OCC proposes to establish and invest funds in ICSI, which was developed to provide data processing and other support services to clearing houses or banking entities that process, clear, and settle transactions in foreign and United States currencies.[3] ICSI is a separate corporate entity from OCC, and will have separate staff, books, records, funds, and operational and computer facilities. ICSI also will be legally independent from the foreign currency clearing houses. Currently, OCC owns all of ICSI's shares and ICSI's Board of Directors is composed of individuals from OCC; however, as ICSI evolves the clearing houses and ICSI may negotiate different ownership and governance structures.

ICSI currently is contracting with consultants and system designers to develop data processing and communications systems to process foreign currency forward and spot exchange contracts among financial institutions. After the systems are developed, ICSI would establish long-term contracts with foreign exchange clearing houses to process those transactions.

OCC states in its filing that it may perform facilities management services for ICSI or may enter into a consulting agreement with ICSI to allow ICSI to obtain the benefits of OCC's technical expertise.[4] OCC will not be involved in policy formulation or the governance decisions of any foreign exchange clearing house.

OCC will provide ICSI with start-up capital.[5] After ICSI is operational it is intended to be self-supporting and obtain revenues by charging fees to its users, *e.g.*, clearing houses, broker-dealers and banks conducting foreign currency trades. Because OCC and ICSI were structured as separate corporations, OCC would not be legally responsible for ICSI's future debts and liabilities.[6]

b. ICSI's Proposed Services

ICSI will perform service bureau functions for foreign currency clearing houses, broker-dealers and banks that conduct foreign currency trades. The broker-dealers and banks will use ICSI's software and computers to communicate with the foreign currency clearing houses. The foreign currency clearing houses will use ICSI's services to communicate with their members and to provide computer services to implement the clearing house's procedures and rules.

OCC and ICSI do not intend to affect the manner in which broker-dealers and banks conduct trades; traders will continue to use current trading mechanisms.[7] After trade terms are negotiated between the parties, each party will submit trade information [8] to ICSI's computer (on behalf of the clearing house) either via an ICSI personal computer (PC) or through a link with the trader's in-house computer system. ICSI's computer will process these transactions on a real-time basis.

ICSI's computer processing will include: edit checks on the trade data, risk algorithems to determine whether the trade is within permissible margin and position limits, determination of the appropriate collateral (the clearing house will establish margin and position limits), and matching of corresponding trades. If ICSI cannot establish a match, it would store trade instructions in a pending file and await new instructions that create a match. ICSI also would track the amount of time trade instructions remain unmatched. If trade data remains in the pending file longer than a prescribed time (for example, five minutes) ICSI would inform the submitting side that the trade has not matched. The submitting side could use this information to contact the *contra* side and attempt to create a matched trade.[9] ICSI also would inform each participant when matches occur.[10] Knowledge of when matches occur is particularly important because when a trade matches, a novation occurs and the clearing house becomes the *contra* party.

ICSI's computer also would monitor the amount of collateral each participant has deposited with the clearing house. Each clearing house participant would be responsible for ensuring that it has deposited sufficient collateral with the clearing house before it conducts each trade to minimize the risk that trades will fail to settle. If a member has not deposited sufficient collateral and attempts to trade, the clearing house would reject the trade.

II. OCC's Rationale

OCC believes that establishing ICSI is consistent with the standards developed by the Commission under the Act. OCC states in its filing that establishing a

---

[2] Securities Exchange Act Release No. 25415 (March 2, 1988), 53 FR 7616.

[3] Although OCC contemplates that ICSI would provide data processing services to foreign exchange clearing houses, foreign currency exchange clearing houses have not yet been established. OCC states that plans are being developed by banks in several countries to establish foreign currency exchange clearing houses. Each foreign clearing house would be organized under the laws of the host country and subject to the regulatory structure imposed by the host country. The first clearing house is expected to be in Canada and is expected to begin operations in the last quarter of 1988. Other clearing houses, located worldwide in major financial centers, are expected to be established beginning in 1989. Initially, each clearing house could only clear and settle trade among its members. After several clearing houses are established, the clearing houses are expected to begin negotiations to develop mechanisms and procedures to clear and settle trades among the clearing houses. Telephone conversastion between Robert Wilcox, Outside Counsel for OCC, Larry Recknagel, Vice President, OCC, and Gerald Greiner, Branch Chief, and Cynthia Psoras, Attorney, Division of Market Regulation, May 23, 1988

[4] If OCC and ICSI enter into either a service agreement or a consulting agreement, OCC has agreed to submit the appropriate documents establishing the parameters of the agreement to the Commission for review under section 19 of the Act. Telephone conversation between Lori Burns, Associate General Counsel, OCC and Cynthia Psoras, Attorney, April 13, 1988. Under those circumstances, the Commission would obtain assurances from OCC that any services provided to ICSI would not affect OCC's operations or its responsibilities under the Act.

[5] In the future, ICSI may establish a plan to repay OCC for the capital outlays OCC plans to make on ICSI's behalf or provide OCC with income in the form of dividends on its investment.

[6] While OCC does not expect to incur any debts or assume any liabilities from its involvement with ICSI, OCC has agreed to inform the Commission of any events related to ICSI that could have a materially adverse effect on OCC's financial position or operational capabilities. Letter from Lori Burns, Associate General Counsel, OCC, to Cynthia Psoras, Attorney, dated April 26, 1988.

[7] The Commission understands that trades generally are conducted via the telephone.

[8] Foreign currency trades generally are not standardized. The parties to each trade must negotiate all the terms including the quantity, price, and settlement date (which also is called the value date) and submit these terms to the clearing house and ICSI.

[9] Clearing house participants also would have access to ICSI's inquiry function, which would enable them to ask the computer for this information and other trade information.

[10] ICSI also would perform a secondary risk assessment to ensure that because of the timing of the transaction no additional transactions had occurred during the intervening time to pose new risks.

subsidiary to provide a centralized service to develop data processing and communications systems adequate to process trade data, settlement data, and related clearing information for foreign currency forward and spot exchange contracts among financial institutions will promote safety and efficiency in foreign currency exchange markets and banking markets.

III. Discussion

As discussed below, the Commission believes that this proposal is consistent with the Act. In making such a determination, the Commission must find that the proposed OCC investment is consistent with the requirements of Section 17A that, among other things, a registered clearing agency (1) safeguard securities and funds in its possession or for which it is responsible, and (2) facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes that, to the extent a registered clearing agency's subsidiary engages in activities outside of the Commission's direct oversight, the Commission's responsibility generally is to assure that those activitives do not undermine the clearing agency's ability to conduct its securities clearance and settlement activities in a manner that is consistent with the Act.[11]

The Commission believes that OCC has taken appropriate measures to ensure that its involvement with ICSI does not adversely effect OCC's ability to conduct its clearance and settlement activities or to satisfy its statutory obligations under the Act.[12] OCC generally should be insulated from any potential liabilities arising from ICSI's operations because as a matter of general corporate law, OCC as a parent corporation is not responsible for the debts or other liabilities of its subsidiary, ICSI. OCC has structured ICSI as a separate corporation with separate facilities, operations, staff, books, and records to ensure that the two corporations remain distinct and that each entity is insulated from financial exposure arising from the other's activities. In addition, OCC is user-governed, which should prevent OCC from subsidizing ICSI to the detriment of OCC and its clearing members.[13] Nevertheless, the Commission understands that OCC's initial investment in ICSI is intended by OCC to cover development and start-up costs for ICSI. The Commission believes that future investments by OCC is ICSI must be carefully monitored to ensure that they do not impair OCC's ability to perform its obligations under the Act. Accordingly, OCC must file with the Commission, as a proposed rule change under section 19(b)(2) of the Act, any proposed material OCC investment in ICSI that has not been committed to ICSI as of today.

ICSI also may provide OCC and its members with indirect benefits. ICSI is designed to recover its costs and make a profit, so it may provide OCC with a return on its investment that could be used to fulfill its responsibilities under section 17A of the Act. Moreover, existing OCC members are expected to use ICSI to more efficiently handle their foreign currency trade operations and thus could benefit from the proposal.

Based on the above discussion, the Commission believes that OCC has taken sufficient steps to ensure that its involvement with ICSI will not undermine its ability to conduct securities clearance and settlement activities in a manner consistent with the Act. Because ICSI as currently proposed will provide only data processing services for foreign exchange transactions, ICSI will not be subject to direct Commission oversight under the Act. The Commission, however, will continue to monitor OCC's relationship and activities with ICSI.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, Section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–87–20) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 12, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–24044 Filed 10–17–88; 8:45 am]

BILLING CODE 8010-01-M

[11] *See* Securities Exchange Act Release No. 21706 (February 4, 1985), 50 FR 53431.

[12] As noted above, to the extent OCC provides services to ICSI, the Commission will obtain assurances from OCC that providing such services will not affect adversely OCC's operations.

[13] *Id.*

[Release No. 34-26174; File No. SR-Phlx-88-07, Amdts. Nos. 2 and 3]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to 2nd and 3rd Amendments to CIP Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 26 and October 11, 1988 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("Phlx" or "Exchange") hereby submits its second and third set of amendments to its proposed rule change to trade Cash Index Participations ("CIPs"). In summary, Phlx is proposing to change its CIP contract to reflect a daily cash-out feature as opposed to a quarterly cash-out feature. [The following are amendments to the proposed text of CIP trading rules filed with the Commission in February, 1988; new language is italicized, deleted language is bracketed, and Rule 1008B is all new text.]

Rules Applicable to Trading of Cash Index Participations Applicability and Definitions

Rule 1000B. (a) No change.

(b) Definitions. The following terms as used in the Rules shall, unless the context otherwise indicates, have the meaning herein specified.

(1) No change.

[(2) Cash-Out Time—The term "cash-out time" means the point in time each quarter of the year when a purchaser of a CIP may obtain the closing index value upon exercise of the cash-out privilege. The cash-out time for each quarter will be determined and made public by the Exchange before the beginning of the quarter.]

[(3)] *(2)* No further change.

* * * * *

Cash-Out Privilege

Rule 1004B. The purchaser of a CIP may [obtain on each cash-out time the CIP closing index value. The deadline for exercising the cash-out privilege will be determined and made public by the Exchange before the beginning of the

quarter.] *exercise the CIP cash-out privilege at any time after establishing a CIP position. Exercise of the CIP cash-out privilege entitles the holder of a long CIP position to obtain the CIP closing index value as specified in Rule 1008B relating to exercise of the cash-out privilege.*

* * * * *

Exercise of Cash-Out Privilege

Rule 1008B. (a) Exercise of the cash-out privilege shall entitle the holder of the CIP to receive the CIP index value less one half of one percent of that value as calculated at the close of trading on the business day following the date of the exercise of the cash-out privilege. For exercises occurring on the business day preceding the third Friday of March, June, September, and December (or when the third Friday is not a trading day, the business day preceding the third Thursday) ("Quarterly Expiration Day"), the exercise of the cash-out privilege shall entitle the holder of the CIP to receive the closing index value of the CIP, based on the opening prices of each of the component stocks of the index on the Quarterly Expiration Day. If one or more of the underlying securities that are the basis of the index do not open for trading on the Quarterly Expiration Day, the closing index value shall be calculated based on the last reported price of such securities prior to that day.

(b) Except as provided in paragraph (c) below, notice of exercise of the CIP cash-out privilege must be provided by a purchaser of a CIP in accordance with the rules and procedures of The Options Clearing Corporation ("OCC"). An exercise notice may be tendered to the OCC only by the clearing member in whose account with the OCC the CIP is carried. Members and member organizations, to the extent that they do not conflict with the rules and procedures of the Exchange and the OCC, shall establish fixed procedures as to the latest hour at which they will accept exercise notices from their customers.

(c) Solely with respect to exercising the CIP cash-out privilege on the business day preceding the Quarterly Expiration Day, clearing members are required to follow the procedures of The Options Clearing Corporation for tendering exercise notices, and member organizations also are required to comply with the following procedures:

(i) A memorandum to exercise the cash-out privilege with respect to any CIP issued or to be issued in a customer, firm, or market maker account at The Options Clearing Corporation must be received and/or prepared by the member organization no later than 4:15 p.m. Eastern Time ("exercise cut-off time") and must be time-stamped at the time it is received and/or prepared. Member organizations must accept exercise instructions until 4:15 p.m. Eastern Time on this day.

(ii) Any member or member organization that intends to submit an exercise notice for 25 or more CIP round lots on the same underlying Exchange CIP index on behalf of an individual customer, specialist, market maker, or firm account must deliver an "exercise advice" on a form prescribed by the Exchange, no later than 4:15 p.m. Eastern Time. For purposes of this rule, exercises of all accounts controlled by the same individual must be aggregated.

(iii) Notwithstanding subparagraph (i) above, member organizations may receive exercise instructions after the exercise cut-off time but prior to any exercise notice receipt cut-off time of The Options Clearing Corporation (1) in order to remedy mistakes made in good faith, (2) to take appropriate action as the result of a failure to reconcile unmatched Exchange CIP transactions or (3) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to the member organization (or the member organization's ability to receive exercise instructions) prior to such time warrant such action.

* * * Commentary

.01 All memoranda of exercise instructions prepared pursuant to this rule are subject to the requirements of SEC Rule 17a–3(a)(6) and 17a–4(b).

.02 In the event a member organization receives an exercise instruction or tenders an exercise notice pursuant to an exception set forth in subparagraph (iii) of paragraph (c) of this rule, the member organization shall maintain a memorandum setting forth the circumstances giving rise to such exception and shall promptly file a copy of the memorandum with the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The proposed rule change represents amendments to SR–PHLX–88–7 regarding the PHLX's proposal to trade CIPs. As originally filed, a CIP holder was permitted to exercise the cash-out privilege once each quarter. In Amendment No. 2 to the CIP rule filing, the original proposal was amended to provide for a daily as opposed to quarterly ability of a CIP holder to exercise the cash-out privilege. This change and how it will operationally work necessitates changes in proposed Rule 1008B to delineate precisely requirements for tendering exercise instructions to The Options Clearing Corporation ("OCC").

The Exchange has re-evaluated the cash-out privilege and has determined to provide CIP holders the ability to cash-out their CIP positions on a daily basis rather than just on a quarterly basis. With the exception noted below, those exercising the cash-out privilege will receive the CIP index value less one half of one percent of that value as calculated at the close of trading one business day following the date on which the cash-out privilege is exercised. The Exchange has determined that those exercising the cash-out privilege on any business day by 4:15 p.m. may receive the closing index value as calculated on the business day following the exercise day of the cash-out privilege. As an exception to exercise of the cash-out privilege set forth above, those exercising the cash-out privilege on the business day prior to the third Friday of March, June, September and Decemer will receive the full CIP index value based on the opening prices of each of the securities in the underlying CIP index on those respective third Fridays. This coincides with the quarterly payment of dividend equivalents by the CIP sellers to CIP purchasers, as well as the expiration of certain stock index options and stock index futures.

The Exchange believes this change will make CIPs more attractive to public investors that may wish to acquire CIP positions. It should also aid in assuring that CIPs do not trade at prices too far below the value of the underlying index. The ½ percent differential from the index value subtracted from CIP holders exercising the cash-out privilege on any day except the business day prior to the third Friday of March, June, September

and December reflects that the daily cash-out privilege is a distinct benefit to CIP holders who also have the ability to close out their positions for cash in the market and avoid such discount. In this regard, CIP writers who were assigned a CIP exercise on all but the quarterly exercise dates need only tender 99½% of the closing index value to exercising CIP holders.

Generally, for daily exercises, exercise instructions must be delivered to the OCC pursuant to the OCC's procedures, currently by 8:00 p.m. Eastern Time of the day the particular CIP position is exercised. Upon exercise of the cash-out privilege, the CIP holder is entitled to the following business day's closing index value. The PHLX is mindful that the proposed rule change would permit the exercise of the cash-out privilege based on public news and events transpiring after the close of CIP trading and the stocks comprising the CIP indices up to 8:00 p.m. Eastern Time, the OCC's cut-off time for receiving exercise instructions. The PHLX, however, does not believe that this exercise instruction cut-off procedure disadvantages CIP writers as exercising CIP holders are not assured of the index price upon which they are cashed out until after the lapse of one trading day.

On quarterly exercise, because exercising CIP holders will be given the following business day's opening CIP index value, exercising CIP holders will be precluded from taking advantage of information occurring after the close of trading on the day of exercise. Accordingly, exercising CIP holders on the Quarterly Exercise Day must tender exercise instructions and prepare such instructions by 4:15 p.m. Eastern Time. Additionally, the proposed rule change requires PHLX member organizations tendering exercise notices for 25 or more CIP round lots on behalf of their own account or customers to send a memorandum informing the PHLX of such by 4:15 p.m. Eastern Time.

The proposed rule change is consistent with section 6(b)(5) of the Act, which provides in part that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The PHLX has prepared this rule change in close coordination with the OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 13, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-24043 Filed 10-17-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26172; File No. 600-24]

Self-Regulatory Organizations; Delta Government Option Corp.; Notice of Amended Application for Registration as a Clearing Agency.

On October 7, 1988, Delta Government Options Corp. ("Delta") filed with the Commission an amendment to its application for registration as a clearing agency pursuant to section 17A of the Securities Exchange Act of 1934, 15 U.S.C. 78q-1 ("Act").[1] The amendment reflects, among other things, revisions to the Procedures ("Revised System Procedures") of the Over-The-Counter Options Trading System ("System"), proposed clearing fees, and revisions to Delta's Registration Statement on Form S-1 under the Securities Act of 1933 ("Amended Registration Statement"), which is incorporated by reference in Delta's application for registration as a clearing agency.[2] As a result of these revisions, Delta has withdrawn several of its requests for exemption from the requirements of Section 17A of the Act and modified other exemption requests. Furthermore, Delta has attached as an exhibit to its Amended Registration Statement the Amended And Restated Operating And Brokerage Services Agreement Relating to the Over-The-Counter Options Trading System. This agreement describes in detail the operation of the System and the specific functions performed by Delta, RMJ Options Trading Corporation, and Security Pacific National Trust Company (New York).

As discussed below, the Commission invites your views concerning Delta's revised application and exemption requests. In preparing submissions on this matter, commentators are urged to review the text of Delta's revised application, rules and submissions, which are available from the Commission's Public Reference Room as described below, and should not rely on the terms of this release for that purpose.

In its original application for registration as a clearing agency, Delta requested, pursuant to section 17A(b)(1)

[1] Delta filed its application for registration as a clearing agency on July 29, 1988. *See* Securities Exchange Act Release No. 25956 (August 1, 1988), 53 FR 29536. On August 24, 1988, the Commission extended the time for public comment on that application to Septemer 9, 1988. *See* Securities Exchange Act Release No. 26024 (August 24, 1988), 53 FR 33209.

[2] Delta filed with the Commission, simultaneous with its amended clearing agency registration application, a second amendment to its Registration Statement.

of the Act,[3] several exemptions from the requirements of section 17A of the Act. First, Delta requested confirmation that the phrase "rules of the clearing agency" as contained in section 17A(b)(3)(A) of the Act will not be construed to apply to Delta's Certificate of Incorporation, By-Laws, shareholders' agreements, or related instruments. In its amended application, Delta seeks confirmation, in the form of an exemption request if necessary, that its "rules" do not include the above items except to the extent those items: (1) Set forth rights duties, and obligations of Delta's participants; or (2) deal with the safeguarding of participant funds or securities.

Second, Delta requested an exemption from the participant admission requirements of section 17A(b)(3)(B) of the Act. The Revised System Procedures (sections 201–203) provided specific standards for the admission of banks, brokers or dealers, and insurance companies as participants. The Revised System Procedures also provide more general standards for the admission of other participants. In its amended application, Delta represents, that, if necessary in the future, it will formulate further specific admission standards to deal with other classes of potential participants. Delta believes that the Revised System Procedures are consistent with section 17A(b)(3)(B), and, therefore, Delta has withdrawn its exemption request concerning that Section.

Third, Delta originally requested an exemption from section 17A(b)(3)(C) of the Act, which provides that the rules of the clearing agency assure a fair representation of its shareholders and participants in the selection of its directors and administration of its affairs. The Revised System Procedures (section 1401) provide for a participants' committee, consisting of from five to fifteen members, to advise Delta on matters pertaining to the operation of the System. As noted in Delta's original clearing agency registration application, Delta's Board of Directors would be elected solely by its shareholders. Delta requests confirmation that the establishment of the participants' committee satisfies the section 17A(b)(3)(C) requirement, or, alternatively, that Dalta be accorded partial exemptive relief from that section.

Fourth, Delta originally requested partial exemptions from sections 17A(b)(3)(F) and 17A(b)(3)(G) of the Act. Delta had requested an exemption from section 16A(b)(3)(F), which requires a clearing agency's procedures to be designed to foster cooperation and coordination with other clearing agencies and to remove impediments to and perfect a mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. Delta requested an exemption from section 17A(b)(3)(G) of the Act to the extent that it would prohibit Delta from exercising its discretion in responding to particular participant defaults and the circumstances under which they may arise. Delta believes that the Revised System Procedures are designed to comply fully with sections 17A(b)(3)(F) and 17A(b)(3)(G) of the Act, and, therefore, Delta has withdrawn its previous exemption requests concerning those sections.

Fifth, Delta originally requested exemptions from the due process requirments of section 17A(b)(3)(H) and 17A(b)(5) of the Act. Delta believes the Revised System Procedures satisfy the due process requirements of sections 17A(b)(3)(H) and 17A(b)(5), and, therefore, Delta has withdrawn its exemptions requests concerning those sections.

Finally, Delta originally requested an exemption from the standard requiring a clearing agency to perform annually an independent audit of its system of internal accounting controls. Delta has withdrawn this exemption request and represents that it will comply with that standard.

You are invited to submit written data, views, and arguments concerning the foregoing amended application within twenty-one days of the date of publication of this notice in the **Federal Register.** Such written data, views, and arguments will be considered by the Commission in deciding whether to approve Delta's clearing agency registration application and grant Delta's remaining exemption requests. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC. 20549. Reference should be made to File No. 600–24. Copies of the application and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 12, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–24047 Filed 10–17–88; 8:45 am]

BILLING CODE 8010-01-M

[3] Section 17A(b)(1) of the Act permits the Commission to grant exemptions from the requirements of section 17A if it finds such exemptions are consistent with the public interest, the protection of investors, and the purposes of section 17A.

[Release No. 34–26168; File No. SR–MSTC–88–5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Midwest Securities Trust Company Relating to a Revised Fee Schedule

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 16, 1988, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the Administrative Bulletin defining the revised fee schedule for services provided to Participants of Midwest Securities Trust Company ("MSTC").

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSTC Revised Fee Schedule more accurately reflects the costs of providing timely services to its participants, particularly labor intensive functions such as deposits, withdrawals,

stock and cash dividend processing and settlement services. At the same time, improvements in automated clearing and settlement systems have reduced the costs of other services. For example, fees for book-entry deliveries (DDI) and interactivity movements between MSTC and Midwest Clearing Corporation accounts have been reduced.

The Revised Fee Schedule is consistent with section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were solicited, however none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to file number SR-MSTC-88-5 and should be submitted by November 8, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 7, 1988.

Exhibit A—Proposed Service Fee Changes

(1) Depository Delivery Instruction (DDI)—Bearer & Registered

Inter-Participant Delivery—$0.45/delivery
Inter-Participant Receipt—$0.45/receipt
Intra-Participant Delivery—$0.45/delivery

The old DDI fee was $0.65/deliver and receive.

(2) Inter-Activity Long (IAL) and Inter-Activity Short (IAS)

CNS Inter-activity Long & Short—$0.75/item
The old inter-activity fee was—$0.85/item

*Volume Discount for Inter-Activity Movements.

Range and Discount

1–1500 items/month—No Discount
1501–2000 items/month—$0.15/item
2001–3000 items/month—$0.25/item
3001–4000 items/month—$0.45/item
Over 4000 items/month—$0.65/item

*Volume discounts are subject to MSTC achieving predetermined revenues. If the anticipated revenues vary, the discounts may be increased or decreased as determined appropriate. Discounts do not apply to those accounts established primarily to use the Automatic Stock Loan Program.

(3) Certificate Deposits—Registered Items

7:30 a.m.–11:00 a.m. CST—$2.00/item*
11:30 a.m.–4:00 p.m. CST—$1.50/item*
(Next day credit)

The old deposit fees were:

7:30 a.m.–11:00 a.m.—$1.50
11:30 a.m.–4:00 p.m. for next day credit—$1.00

No change was made in the 11:00 a.m.–11:30 a.m. period.

(4) Registered Deposit Reclamation

Reclamation Charge—$10.00/item
The old reclamation charge was—$9.00/item

*Plus transfer agent fee, if applicable.

(5) Legal Deposits

1–500 items/month—$6.50/item (no change)
501–2000 items/month—$5.50/items (no change)
2001–4000 items/month—$4.50/item (no change)
Over 4000 items/month—$3.00/item

The old Over 4000 items/month charge was $3.50/item.

(6) Street Withdrawals

Withdrawal by Street Request—$10.00/request
The old street withdrawal fee was—$8.00/request

(7) Bearer Bond Withdrawal

Bearer Bond Withdrawal—$10.00/request
The old bearer bond withdrawal fee was—$7.50/request

(8) Dividends and Bond Interest

Stock Dividend Credits—$11.00/credit
Registered Bond Interest Credit—$1.60/credit

The old stock dividend credit was $4.00/credit and the registered bond interest credit was $1.50/credit.

(9) Daily Pay and Collect Physical Check Fee

For participants who require a physical check to pay or collect their daily settlement figure, a check handling charge of $50.00/month has been established.

(10) Bearer Bond Safekeeping Value Charges

Two categories were changed.

0–.5 billion—No change
.5–1 billion—.00030/day/5000 face value
Over 1 billion—.000295/day/5000 face value

The old fee for these categories was $0.00022/day/5000 face value in the .5 to 1 billion category for bearer safekeeping and $0.00011/day/5000 face value in the 1–5 billion category. Over 5 billion in safekeeping value positions was charged at the rate of $0.00005/day per 5000 face value in bearer bonds.

[FR Doc. 24048 Filed 10-17-88; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2321]

Declaration of Disaster Loan Area; Texas

As a result of the President's major disaster declaration on October 5, 1988, I find that the Counties of Bexar, Cameron, and Hidalgo, in the State of

Texas, constitute a disaster loan area due to damages from Hurricane Gilbert which occurred September 15–17, 1988. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on December 5, 1988 and for economic injury until the close of business on July 5, 1989, at the address listed below:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsehere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and religious organizations)	9.000

The number assigned to this disaster is 232108 for physical damage and for economic injury the number is 666700.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: October 6, 1988.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 88–23944 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 6665]

Declaration of Disaster Loan Area; Wyoming

The Counties of Fremont, Park, Sublette, and Teton, in the State of Wyoming, constitute an Economic Injury Disaster Loan Area as a result of damages from forest fires which began on July 11, 1988, and continue. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on July 6, 1989, at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, California 95853–4795.

or other locally announced locations.

The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002)

Date: October 6, 1988.

James Abdnor,

Administrator.

[FR Doc. 88–23495 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting on Thursday, November 17, 1988 at 5:00 p.m. and on Friday, November 18, 1988 at 8:30 a.m. to 3:00 p.m., at the Sheraton Harrisburg East, 800 East Park Drive, Harrisburg, PA 17111, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, Allendale Square, 475 Allendale Road, King of Prussia, PA 19406, 215/962–3795.

October 12, 1988.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 88–23948 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m. on Wednesday, October 26, 1988, at the Owyhee Plaza "Capital Room," 1109 Main Street, Boise, Idaho, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Joseph G. Kaeppner, District Director, U.S. Small Business Administration, 1020 Main Street, Suite 290, Boise, Idaho, (208) 334–9641.

October 11, 1988.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 88–23946 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0297]

UNCO Ventures, Inc.; Issuance of Small Business Investment Company License

On August 10, 1988, a notice was published in the **Federal Register** (53 FR 30159) stating that an application had been filed by UNCO Ventures, Inc. with the Small Business Administration (SBA) pursuant to 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1988)) for a license to operate as a small business investment company.

Interested parties were given until close of business September 9, 1988 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06–0297 on September 30, 1988, to UNCO Ventures, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1988.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 88–23947 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of North Carolina, will hold a public meeting at 10:00 a.m. on Tuesday, November 15, 1988 at the Capitol City Club in Raleigh, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gary A. Keel, District Director, U.S. Small Business Administration, 222 S. Church Street, Suite 300, Charlotte, North Carolina 28202, 704/371–6561.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 12, 1988.

[FR Doc. 88–23998 Filed 10–17–88; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration, Region X Advisory Council, located in the geographical area of Seattle, Washington, will hold a public meeting on November 17, 1988 at 1:00 p.m. to 4:30 p.m. at the Senior Council Chamber, Greater Seattle Chamber of Commerce, Twelfth Floor, One Union Square, Seattle, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John J. Talerico, District Director, U.S. Small Business Administration, 915 Second Avenue, Federal Building-Room 1792, Seattle, Washington 98174–1088, 206/399–2786.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 12, 1988.

[FR Doc. 88–23999 Filed 10–17–88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended

April 29, 1988

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 expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45599

Date Filed: April 25, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 9, 1988.

Description: Application of Corse-Air International, S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to engage in foreign charter air transportation of passengers, property and mail, including combination charters, between France and the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88–23949 Filed 10–17–88; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 39579, Friday, October 7, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, October 17, 1988.

CHANGE IN THE MEETING: The Closed Session of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, Executive Secretariat, (202) 634-6748.

Frances M. Hart,

Executive Officer, Executive Secretariat.

This Notice Issued October 12, 1988.

[FR Doc. 88-24082 Filed 10-14-88; 3:14 pm]

BILLING CODE 6750-06-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Wednesday, October 19, 1988, 9:00 a.m.

PLACE: 1776 G Street, NW. Board Room, Third Floor, Washington, DC 20006.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Keith Earley, 1759 Business Center Drive, P.O. Box 4115, Reston, Virginia 22090, (703) 759-8414.

MATTERS TO BE CONSIDERED:

Closed—Minutes of the September 28, 1988 Board of Directors' meeting
Closed—President's report
Closed—Structured financings
Closed—Corporate investments
Closed—Financial report

Date sent to Federal Register October 13, 1988.

Maud Mater,

Secretary.

[FR Doc. 88-24113 Filed 10-14-88; 3:14 pm]

BILLING CODE 6719-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, October 24, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of office automation equipment within the Federal Reserve System.
2. Proposed purchase of disk equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: October 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-24137 Filed 10-4-88; 3:17 pm]

BILLING CODE 6210-01-M

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: October 31, 1988, 6:00-9:30 p.m.

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. The Chairman's Report
2. The President's Report
3. Preview and Discussion of Peruvian Video
4. Report and Discussion on New SPTF Agreement
5. Board Adult Committee Report
6. Approval of the Minutes of the May 9-10, 1988, Board Meeting

CONTACT PERSONS FOR MORE INFORMATION: Charles M. Berk, Secretary to the Board of Directors, (703) 841-3812.

Date: October 11, 1988.

Charles M. Berk,

Sunshine Act Officer.

[FR Doc. 88-24128 Filed 10-14-88; 3:13 pm]

BILLING CODE 7025-01-M

PAROLE COMMISSION, DEPARTMENT OF JUSTICE

DATE AND TIME: Wednesday, October 26, 1988, 9:00 a.m., eastern daylight time.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open—Meeting.

MATTERS TO BE CONSIDERED: The following matter has been placed on the agenda for the open Parole Commission meeting:

1. Adoption of minutes of previous Commission meeting.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Management and Administrative Sections.
3. Consideration of Resource Allocation of FY 1989 (Discussion only).
4. Report on the Community Sanction/Home Detention Program.
5. Review of the Community Based Programs (Discussion only).
6. Consideration of proposal to set severity rating for Stolen/Fraudulent Credit Cards.
7. Consideration of proposal granting Superior Program Achievement from presumptive parole dates rather than statutory release dates.
8. Consideration of proposal adding Community Service as a parole condition (Discussion only).
9. Consideration of a proposal setting special conditions for high risk cases (Discussion only).
10. Consideration of a proposal setting a special condition of parole—Victim Assistance.
11. Consideration of a proposal requesting notification from INS and other agencies of inmates released from detainers (Discussion only).
12. Promulgation of an interpretative rule concerning forfeiture of street time.
13. Consideration of modification of regulations to reflect parole eligibility for Gun Control Offenses.
14. Adoption of a final rule which extends *Watts* procedures to all YCA offenders.
15. Consideration of a proposed revision of § 2.24 to reflect change from Institutional Disciplinary Committee (IDC) System to Disciplinary Hearing Officer (DHO) System.

AGENCY CONTACT: Jim Beck, Director Research Section, United States Parole Commission (301) 492-5936.

Date: October 14, 1988.

Michael A. Stover,

Acting General Counsel, U.S. Parole Commission.

[FR Doc. 88-24083 Filed 10-14-88; 3:14 pm]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 17, 24, 31, and November 7, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 17

Wednesday, October 19

2:00 p.m.
Briefing on Different Cash Designs for Shipping and Storing Nuclear Materials (Public Meeting)

Thursday, October 20

2:00 p.m.
Briefing on Safety Goal Implementation Plan (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 24—Tentative

Tuesday, October 25

11:00 a.m.
Periodic Briefing by TMI–2 Advisory Panel (Public Meeting)

Wednesday, October 26

10:00 a.m.
Briefing on Interrelationship of Standardization, Severe Accidents, Safety Goals, and Advanced Reactors (Public Meeting)

Thursday, October 27

11:00 a.m.
Periodic Briefing by the Advisory Committee on Nuclear Waste (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 31—Tentative

There are no meetings scheduled for the Week of October 31.

Week of November 7—Tentative

Wednesday, November 9

2:00 p.m.
Briefing on Status of NUREG–1150 (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, November 10

10:00 a.m.
Briefing on Final Rule on Standards for Protection Against Radiation—Part 20 (Public Meeting)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,
Office of the Secretary.
October 14, 1988.

[FR Doc. 88–24129 Filed 10–14–88; 8:45 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [53 FR 39716 October 11, 1988].

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 5, 1988.

CHANGE IN THE MEETING: Deletion.

The following item will not be considered at an open meeting on Friday, October 14, 1988, at 9:00 a.m.

Consideration of whether to publish for comment a release proposing alternative versions of new Rule 144A that would provide a safe harbor from the registration requirements of the Securities Act of 1933 for resale of securities to institutional investors. Additionally, consideration of whether to public for comment a proposal to amend Rules 144 and 145 under the Securities Act, under which the holding period for restricted securities would commence at the time the securities are sold by the issuer or its affiliate. For further information, please contact Sara Hanks or Samuel Wolff at (202) 272–3246, or as to changes to Rules 144 and 145, Catherine Dixon at (202) 272–2573.

Commissioner Cox, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Amy Kroll at (202) 272–2092.

Shirley E. Hollis,
Assistant Secretary.
October 13, 1988.

[FR Doc. 88–24135 Filed 10–14–88; 3:13 pm]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 11, 1988.

CHANGE IN THE MEETING: Additional meeting.

The following items will be considered at an open meeting on Wednesday, October 19, 1988, at 10:00 a.m.:

1. The Commission will consider whether to publish for comment amendments to Schedules 13D, 14D–1, 14B and 13E–3 under the Securities Exchange Act of 1934, which among other things, would require the disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in the limited partnership or other entity engaging in a particular transaction. For further information, please contact David A. Sirignano or Richard E. Baltz at (202) 272–3097.

2. The Commission will consider whether to publish for comment amendments to Rules 13d–1, 13d–2 and 13d–7 and Schedules 13D and 13G under the Securities Exchange Act of 1934, which, among other things, would provide that any person, other than an institutional investor currently entitled to file on Schedule 13G in certain circumstances, who aquires or holds more than five percent, but not 15 percent or more, of a class of equity securities with a passive investment purpose, must report that acquisition on short-form Schedule 13G, within 10 days after the acquisition. For further information, please contact David A. Sirignano or Richard E. Baltz at (202) 272–3097.

Commissioner Cox, as duty officer, determined that Commission business required the above changes.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alden Adkins at (202) 272–2000.

Shirley E. Hollis,
Assistant Secretary.
October 13, 1988.

[FR Doc. 88–24136 Filed 10–14–88; 3:13 pm]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 17, 1988.

A closed meeting will be held on Tuesday, October 18, 1988, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed a meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 18, 1988, at 2:30 p.m., will be:

Formal order of investigation.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Institution of injunctive actions.

Regulatory matter regarding financial institutions.

At times changes in Commission priorities require altersations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alden Adkins at (202) 272–2000.

Jonathan G. Katz,

Secretary.

October 11, 1988.

[FR Doc. 88–24050 Filed 10–14–88; 9:04 am]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

Correction

In notice document 88-23042 beginning on page 39330 in the issue of Thursday, October 6, 1988, make the following correction:

On page 39330, in the third column, in the table, the eighth entry in the second column should read "2,604,033 pounds.".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

[CFDA No. 84.003]

Office of Bilingual Education and Minority Languages Affairs

Correction

In notice document 88-22456 beginning on page 38320 in the issue of Friday, September 30, 1988, make the following corrections:

1. On page 38321, in the table, in the second column, in the third line, "do." should read "October 14, 1988".

2. On the same page, in the table, in the third column, in the third line, "do." should read "November 8, 1988".

3. On the same page, in the table, in the fourth column, in the third line, "Do." should read "January 6, 1988".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300178; FRL-3449-6]

Chlordimeform; Revocation and Amendment of Tolerances

Correction

In proposed rule document 88-21263 beginning on page 36426 in the issue of Monday, September 19, 1988, make the following correction:

§ 180.285 [Corrected]

On page 36427, in the second column, under § 180.285, in the fourth line, "formamidine" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 185 and 186

[OPP-300177; FRL-3449-7]

Chlordimeform; Revocation of Food and Feed Additive Regulations

Correction

In proposed rule document 88-21262 beginning on page 36427 in the issue of Monday, September 19, 1988, make the following correction:

On page 36427, in the third column, under **SUMMARY**, in the fifth line, "§ 185.750" should read "§ 186.750".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50680; FRL-3446-8]

Issuance of Experimental Use Permits

Correction

In notice document 88-20905 beginning on page 35549 in the issue of Wednesday, September 14, 1988, make the following corrections:

1. On page 35549, in the second column, under **SUPPLEMENTARY INFORMATION**, in the fourth line, "*7669—EUP—24.*" should read "*7969—EUP—24.*".

2. On page 35550, in the first column, in the sixth line, "sulfonyl" was misspelled.

3. On the same page, in the same column, in the first complete paragraph, in the 14th line, "Delaware" was misspelled.

4. On the same page, in the second column, in the seventh line, "methyl" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51713; FRL-3446-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 88-20906 beginning on page 35555 in the issue of Wednesday, September 14, 1988, make the following corrections:

1. On page 35556, in the second column, under **P 88-1867**, in the third line, "in" should read "an".

2. On page 35556, in the second column, under **P 88-1869**, in the fourth line, "nitro-" was misspelled.

3. On the same page, in the same column, in the same paragraph, in the seventh line, "*Toxicity Date.*" should read "*Toxicity Data.*".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51714; FRL-3452-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 88-21778 beginning on page 37048 in the issue of Friday, September 23, 1988, make the following corrections:

1. On page 37049, in the second column, in the third line, "oxiranylmethyl" was misspelled.

2. On the same page, in the third column, under **P 88-1893**, in the third line, "trimethylphenylmethanone" was misspelled.

3. On page 37050, in the first column, in the third line, "Etch" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59263; FRL-3447-1]

Toxic and Hazardous Substances; Test Market Exemption Applications

Correction

In notice document 88-20907 beginning on page 35556 in the issue of Wednesday, September 14, 1988, make the following correction:

On page 35557, in the second column, under **T 88-19**, in the first line, "October 8, 1988" should read "October 14, 1988".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 886

[Docket No. 86N-0013]

Ophthalmic Devices; Exemptions From Premarket Notification

Correction

In rule document 88-20692 beginning on page 35602 in the issue of Wednesday, September 14, 1988, make the following corrections:

§ 886.1150 [Corrected]

1. On page 35603, in the third column, in § 886.1150(b), the first line should read, "(b)*Classification.* Class I. The device is".

§ 886.1790 [Corrected]

2. On page 35605, in the third column, in § 886.1790(b), the second line should read "is exempt from the premarket".

§ 886.1840 [Corrected]

3. On the same page, in the same column, in § 886.1840, in the section heading, "Simulation" should read "Simulatan".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 88-AWP-13]

Proposed Alteration of Jet Route J-5, CA

Correction

In proposed rule document 88-21712 appearing on page 36996 in the issue of Friday, September 23, 1988, make the following correction:

In the first column, in the **SUMMARY**, in the sixth line, "J-5" should read "J-50".

BILLING CODE 1505-01-D

federal register

Tuesday
October 18, 1988

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Prime Farmland; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Prime Farmland

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI), in cooperation with the USDA, Soil Conservation Service (SCS), is amending certain portions of its rules applicable to prime farmland, including § 785.17 of 30 CFR Part 785 and §§ 823.11, 823.12, and 823.14 of 30 CFR Part 823. This action is being taken, in part, to implement a decision of the U.S. District Court for the District of Columbia. The amended rules: (1) Provide guidance in implementing an exclusion from the Surface Mining Act's prime farmland provisions for coal mine waste storage areas associated with underground mines; (2) provide special consideration for the removal and replacement of B and C soil horizons, where removal is unnecessary and would not normally be required; and (3) eliminate the water body exemption in consideration of the district and appeals courts' decisions. The rule also provides clarification that water bodies continue to be allowed on post-mining non-prime farmland portions of permit areas provided that the aggregate total prime farmland acreage is not decreased from that which existed prior to mining and that certain other conditions are met.

EFFECTIVE DATE: November 17, 1988.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dermot M. Winters, telephone: (202) 343-1928 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Final Rule and Response to Comments
III. Procedural Matters

I. Background

Statutory Background

The Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmland as defined in section 701(20) of the Act. Permit application information and approval requirements are contained in sections 507(b)(16), 508(a)(2)(C), 508(a)(5) and 510(d) of the Act.

Section 507(b)(16) of the Act requires that permit applications include a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmland. Section 508(a)(2)(C) of the Act requires that permit applications contain a statement of the productivity of the land prior to mining including the appropriate classification as prime farmland, as well as the average yield of food, fiber, forage or wood products from such lands obtained under high levels of management. Section 508(a)(5) of the Act requires a plan for soil reconstruction, replacement, and stabilization pursuant to the prime farmland performance standards of section 515(b)(7) of the Act. Moreover, section 510(d)(1) of the Act provides that the regulatory authority shall grant a permit to mine on prime farmland only after consultation with the Secretary of Agriculture, and if the regulatory authority finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 515(b)(7) of the Act.

Statutory performance standards for prime farmland are found in sections 515(b)(7) and (b)(20) of the Act. Section 515(b)(7) sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. Section 515(b)(20) establishes when the period of responsibility for successful revegetation begins and provides an exception to vegetative cover requirements when the regulatory authority makes a written finding approving a long-term, intensive, agricultural postmining land use. In addition, section 519(c)(2) states that performance bonds shall not be released until soil productivity for prime farmland has returned to equivalent levels of yield as unmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey.

Section 516 of the Act requires the Secretary to promulgate rules to regulate the surface effects of underground coal mining operations. However, in adopting such performance standards, permit requirements, and bonding rules, the Secretary must consider the distinct differences between surface coal mining and underground coal mining in accordance with section 516(a), section 516(b)(10), which makes the prime farmland performance standards applicable, and section 516(d), which makes the permit application and bonding requirements applicable. Also, according to section 516(a), such rules shall not conflict with nor supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 or rules implementing that act.

With respect to coal mine wastes incident to underground mining operations, section 516(b)(3) of SMCRA requires operators to maximize to the extent technologically and economically feasible the return of coal wastes to the mine workings or excavations. Under 30 CFR 784.25 and 817.81(f), disposal of coal mine waste in abandoned underground mine workings must be performed in accordance with a plan approved by the regulatory authority and the Mine Safety and Health Administration.

Note.—Apart from the SMCRA requirements, it is also necessary to have the approval of the Environmental Protection Agency, pursuant to their regulations governing water quality, before coal mine wastes can be returned to underground workings.

To the extent the surface disposal of coal mine waste cannot be avoided, section 516(b)(4) of SMCRA requires that any remaining waste piles be stabilized, leachate meet applicable Federal and State laws, the final contours be compatible with natural surroundings, and that the site be revegetated in accordance with section 516. Also, where the surface disposal of coal mine wastes occurs, section 516(b)(5) of SMCRA requires the operator to treat all existing and new coal mine waste piles used either temporarily or permanently as dams or embankments in accordance with standards and criteria that conform to the standards and criteria used by the Chief of Engineers (U.S. Army Corps of Engineers) to insure that flood control structures are safe and effectively perform their intended function. In addition, OSMRE's standards and criteria must provide for regulatory approval, inspection, and oversight of all aspects of the design, construction, modification, maintenance, removal, and abandonment of coal waste impounding structures. Those standards and criteria are implemented by 30 CFR 817.49, 817.81, 817.83, and 817.84 of the permanent program performance standards.

Rules implementing prime farmland permitting, bonding and performance provisions are found at 30 CFR 785.17, 800.40 and Part 823.

Regulatory Background and Court Decisions

On March 13, 1979, OSMRE published prime farmland rules which affected both surface and underground mining operations. Complaints were made in the district court that: (1) The prime farmland requirements should only refer to the mining area and not support facility areas; (2) undergound mining operations create minimal surface disturbance to the environment and therefore are a de minimus problem; and (3) the maintenance of soil stockpiles for 20 to 40 years would create little agricultural gain, but would necessitate great operator expense and effort. The district court ruled that the prime farmland performance standards of the Act do apply to the surface effects of underground mining operations but suggested that a limited exemption be made for surface facilities which are actively used over extended periods of time but which affect a minimal amount of land.

On May 3, 1982 (47 FR 19076 *et seq.*), OSMRE proposed rules in consideration of the U.S. District Court order of May 16, 1980, remanding to the Secretary of the Interior portions of his March 13, 1979 prime farmland rules as they applied to underground mining. *In re: Permanent Surface Mining Regulation Litigation,* No 79–1144 (D.D.C.) May 16, 1980, Mem. Op. at 1–3 (*In re: Permanent*).

Final rules implementing that decision were published on May 12, 1983 (48 FR 21446 *et seq.*), and became effective on June 13, 1983. At that time OSMRE published final § 823.11(a) which excluded from the special prime farmland performance standards land occupied by coal preparation plants, support facilities, and roads associated with surface and underground mines. Following promulgation of the final rule, the National Wildlife Federation (NWF) challenged the exemption insofar as it applied to surface facilities of surface mines. NWF also asserted that the rule did not contain adequate guidance on the spatial and temporal limits concerning excluded land for underground mines. On October 1, 1984, the U.S. District Court for the District of Columbia remanded the regulation which extended the exemption to surface facilities associated with surface mines. (*In re: Permanent Surface Mining Reclamation Litigation II,* No. 79–1144 (D.D.C.) October 1, 1984, Mem. Op. at 21–23 (*In re: Permanent II*)). The court explained that the rationale for its 1980 opinion, the difference between surface and underground mining operations, does not apply to surface mines where topsoil need not be stored for many years but can be redistributed over the areas disturbed by surface operations. The court agreed that the exemption from the special prime farmland standards did apply to the listed surface facilities for underground mines. The court also held that the Secretary has a duty to "flesh out" the statutory requirements and provide guidelines limiting the scope of this exemption. (*In re: Permanent II* at 23).

On March 19, 1986, OSMRE involved major external groups in its regulatory process through an outreach program designed to obtain comments on initial drafts of significant rulemakings prior to development of proposed regulations. Nine commenters provided comments to OSMRE on the initial draft of these prime farmland rules.

On March 25, 1987 (52 FR 9644), OSMRE proposed rulemaking to respond to the court's October 1, 1984 ruling. In that notice, OSMRE solicited public comments and made provision to hold public hearings upon request. During the 70-day comment period, eight commenters, including representatives of industry, government agencies, and citizen and environmental groups submitted numerous comments on the proposed rule. No public meetings or hearings were requested, and none were held.

Subsequently, on January 29, 1988 the U.S. Court of Appeals, D.C. Circuit, upheld the decision by the U.S. District Court for the District of Columbia on the issue of the construction of water impoundments on prime farmland. *NWF v. Hodel,* 839 F2d 694, at 719. (D.C. Cir., 1988) (*NWF v. Hodel*). The appeals court decision came at a time when the Office of Surface Mining Reclamation and Enforcement (OSMRE) was in the process of preparing this final rule. To ensure that the final rule would be responsive both to the Court decisions and to comments received on the proposed rule, OSMRE decided to make a careful reexamination of certain issues involving the restoration of prime farmland and related to the creation of water bodies on permit areas containing prime farmland prior to promulgating this final rule.

Therefore, on March 23, 1988 (53 FR 9453) OSMRE reopened the public comment period on the water bodies issue for 30 days. Subsequently, in response to a written request from the American Mining Congress the reopened comment period on the water bodies issue was extended until May 12, 1988. In the March 23 notice OSMRE solicited the views of regulatory authorities, SCS State Conservationists, surface mine operators, and all other interested persons on the circumstances under which impoundments may be created within permit areas containing prime farmland and on the related experiences of the regulatory authorities, SCS State Conservationists, and surface coal mine operators in relocating prime farmland soils within permit areas.

II. Discussion of Final Rule and Response to Comments

During the reopened comment period commenters including representatives of industry, regulatory authorities, SCS State Conservationists, and citizen/environmental groups, provided OSMRE with numerous comments. Two commenters generally supported the revised proposal, and one was generally opposed. In addition, two commenters reiterated comments they had made during the 1987 comment period and one of them expressed impatience, insisting that OSMRE must not delay further in implementing these rules. Specific comments on the entire rule, including the original 1987 proposal and the revised 1988 proposal are discussed in detail below.

A. Section 785.17(e)—Requirements for Permits for Special Categories of Mining—Prime Farmland.

Withdrawal of Proposed §§ 785.17(e)(1) and 823.11(b)

On March 25, 1987 (52 FR 9644), OSMRE proposed to create a limited exemption from the prime farmland restoration and productivity standards, provided certain conditions were met, for prime farmland soils removed in the process of creating water bodies on permit areas containing prime farmland. Proposed §§ 785.17(e)(1) and 823.11(b) were intended to provide this limited exemption from the prime farmland standards for water bodies where the total acreage of prime farmland would not be decreased in the permit area and surface land owner consent was obtained. Under this proposal, operators would have been allowed to plan and install a water body on an area of prime farmland soil as long as the prime farmland soils obtained from the excavation of the water body were handled in conformity with the requirements of Part 823 and an equal amount of prime farmland acreage was reconstructed on non-prime farmland portions of the permit area.

Proposed §§ 785.17(e)(1) and 823.11(b) would have worked in tandem to provide this limited exemption. Under proposed § 785.17(e)(1), OSMRE would have authorized the approved postmining land use of prime farmland to include impoundments so long as the aggregate premining prime farmland acreage within the permit area was retained and the consent of affected property owners within the permit area was obtained. This would preserve the number of prime farmland acres which were present prior to mining, although there would be a shift in the location of prime farmland soil placement to accommodate the creation of water bodies. All resulting postmining prime farmland would have been required to meet the soil reconstruction and productivity standards of Part 823, with no net loss of prime farmland acreage within the permit area. Protection from the potential economic consequences of shifting the location of prime farmland would have been provided to property owners through the requirement that operators obtain property owner consent before an impoundment would be allowed. Proposed § 823.11(b) would have granted water bodies created under the authority of proposed § 785.17(e)(1) an exemption from the restoration and productivity requirements of §§ 823.14 and 823.15.

Among those commenters commenting on the water bodies issue prior to the 1988 reopening of the public comment period were three who were in favor of the 1987 proposal for an exemption and two who were opposed to that proposal. Insofar as their specific comments remain relevant to this final rule, they are discussed below along with the comments received on the revised proposal put forward during the 1988 reopened comment period. Also, during the reopened comment period one commenter reiterated its opposition to the 1987 proposal.

Proposed §§ 785.17(e)(1) and 823.11(b) have been withdrawn and final § 785.17(e)(5) is promulgated herein.

Final § 785.17(e)(5)

As described above, under the 1987 proposed rule, operators would have been allowed an exemption from the prime farmland standards to plan and install a water body in a portion of a permit area provided the prime farmland acreage postmining was not decreased from the premining amount and that surface owner consent was obtained. Although a specific exemption from the Part 823 performance standards for prime farmland was first added to the rules in 1983 (48 FR 21446, May 12, 1983), the concept of allowing an exemption can be traced back to 1979 when OSMRE stated that "last cut" lakes were acceptable as an alternative postmining land use on prime farmland (44 FR 15087, March 13, 1979). However, the 1983 rules did not include the 1987 proposal's requirement that the postmining prime farmland acreage not be less than the premining prime farmland acreage.

In *In re: Permanent II*, the National Wildlife Federation challenged the 1983 rule at § 823.11(b), which set forth an exemption from the prime farmland performance standards for water bodies that had been approved by the regulatory authority as an alternative postmining land use. The district court struck down the exemption and held that it provided a broad and impermissible variance from the postmining use of prime farmland. *In re: Permanent II*, No. 79–1144, pp. 19–21. The issue was then appealed to the U.S. Court of Appeals, D.C. Circuit. On January 29, 1988, the appeals court affirmed the district court's decision overturning the exemption for last-cut impoundments on prime farmland, noting that section 515(b)(7) "plainly supports the district court's conclusion that a general exception for water impoundments authorizes impermissible postmining uses of prime farmland."

In response to this decision of the appeals court and despite the fact that OSMRE has viewed its March 25, 1987, proposed § 785.17(e)(1) exemption as consistent with the prime farmland provisions of the Act, since it was meant to maintain the number of prime farmland acres at premining levels as well as to maintain the soil productive capacity of those lands, OSMRE, as indicated above, reopened the comment period on March 23, 1988 (53 FR 9453), to withdraw this proposal and replace it with an alternative more consistent with the court decisions.

OSMRE believes it was generally misleading to characterize the 1987 proposed rule as an exemption. As indicated in the notice reopening the public comment period, OSMRE no longer believes that an exemption to the prime farmland rules is necessary to allow operators to create water bodies within permit areas containing prime farmland so long as the aggregate premining prime farmland acreage within the permit area is retained and certain other conditions are met. OSMRE has further evaluated the relocation of reclaimed soils during contemporaneous reclamation activities on permit areas which contain less than 100 percent prime farmland prior to mining. OSMRE concludes that on such areas, a site on which non-prime farmland soil would otherwise be relocated may be used to create a water body under existing requirements and practices. The shifting of prime farmland soils from a pre-mining location to a post-reclamation location is currently authorized and can properly be considered part of normal practice in restoring prime farmland pursuant to Part 823.

This position is not new. Since 1979, OSMRE has authorized the relocation of prime farmland soils within the permit area. OSMRE stated in a brief filed with the Federal District Court that "The Secretary's regulations provide that small or odd-shaped plots [of prime farmland] can be consolidated and relocated in meeting the reclamation standards of the Act. The only limitations on soil placement pertain to restoration of the soil to insure its productive capacity. There is no requirement, however, that the reconstructed prime farmland soil be placed in the same location as before mining. Therefore, so long as the aggregate amount of prime farmland that is restored equals the amount that existed before mining, the Secretary's reconstruction requirements will be satisfied." *In Re: Permanent*, Memorandum in support of cross-motion for summary judgment, filed December 21, 1979, at pp. 100–101.

Consequently, when OSMRE reopened the public comment period on the issue of water bodies, it indicated it was interested in determining with greater specificity: (1) How SCS-approved restoration has proceeded in those situations where permit areas contained less than 100 percent prime farmland prior to mining, (2) the extent to which prime farmland soils have been shifted within the permit area from pre-mining to different post-reclamation locations during the typical process of prime farmland restoration, and (3) the extent to which the creation of water bodies has been allowed by regulatory authorities on post-reclamation non-prime farmland portions of permit areas which contained prime farmland soils prior to mining. OSMRE also indicated it was interested in receiving comments on other reasons for relocating prime farmland soils. It was necessary to ask these questions because the creation of water bodies and the relocation of prime farmland soils in the typical permit area containing prime farmland are necessarily linked and whatever regulatory scheme is developed must address the water body issue in that context. This is so because the typical permit area containing prime farmland,

contains less than 100 percent prime farmland. When such a permit area is to be surface mined, irrespective of whether a water body is contemplated as a post mining land use, the postmining prime farmland acreage configuration will be changed from the premining configuration as a normal consequence of the properly executed mining and reclamation process. Numerous comments were received in response to the request for comments. These comments and other relevant comments received during the 1987 comment period are addressed below.

A number of comments were received supporting OSMRE's position articulated in its 1988 notice reopening the comment period, on the issue of the creation of water bodies under certain conditions in those permit areas which contain less than 100 percent prime farmland.

Since most permit areas in prime farmland regions do not contain solely prime farmland soils and there were commenters who wanted more certainty concerning under what circumstances water bodies may be created in those permit areas which contain less than 100 percent prime farmland, this final rule clarifies under what circumstances water bodies may be permitted by the regulatory authorities. In essence, such bodies are now and can continue to be allowed whenever there is surface owner consent and (1) the water body will be located on the postmining non-prime farmland portion of the permit area, (2) the aggregate prime farmland acreage existing prior to mining will not be decreased and its soil productivity will be maintained, and (3) the alternative postmining land-use provisions of section 515(b) (2) and (8) of the Act will be met. In every instance, the soil removal, segregation, and stockpiling requirements of § 823.12 would continue to apply as the water body is being excavated to assure that sufficient reclamation material is available to reconstruct prime farmland within the permit area equal or greater in acreage to that which existed prior to mining. In effect, although the operator must replace all prime farmlands disturbed, they may be moved from their original location to a different location within the same permit area, provided the soil reconstruction and productivity requirements of §§ 823.14 and 823.15, respectively, are met.

A number of 1987 and 1988 commenters, including several state regulatory authorities, confirm and reinforce OSMRE's understanding that the relocation of prime farmland soils within a permit area is normal practice, irrespective of whether water bodies are left in the permit area postmining. OSMRE has also been made aware that relocation of prime farmland soils without any decrease in prime farmland acreage has occurred as part of normal reclamation practice in several states. The construction of water bodies on postmining non-prime farmland portions of permit areas in locations formerly containing prime farmland soils has been performed in conjunction with these soil relocation practices. In fact, a commenter described a net increase in prime farmland acreage after reclamation. These commenters all indicated their support for continuation of the practice so long as the postmining prime farmland acreage is not less than the premining prime farmland acreage. Commenters also indicated that the practice of relocating prime farmland was often necessary or desirable. Relocation of prime farmland soils within a permit area has been allowed by regulatory authorities for a number of valid reasons, including the following:

1. Prime farmland soils areas prior to mining are generally irregular in shape and interspersed with non-prime soils. This makes reconstruction in the same location virtually impossible.

2. Prime farmland soils removed in advance of the mining operation are replaced on areas where rough grading has been completed so as to facilitate the practice of concurrent reclamation and to avoid stockpiling.

3. Prime farmland soils are often grouped during reclamation into larger fields for ease of management and to facilitate an orderly testing of productivity standards.

4. Small isolated areas of prime farmland have been consolidated to improve their farmability.

5. The relocation of prime farmland soils couple with the topographic changes resulting from mining and reclamation occasionally has made it possible for the aggregate total prime farmland acreage to be increased postmining from that which existed prior to mining.

Two commenters stated that, particularly in the last two types of instances, the relocation of prime farmland soils can be beneficial to long-term productivity.

Therefore, viewed in the context of typical soil reclamation practices and applicable restrictions on location, acreage, and productivity, the placement of prime farmland soils so as to allow the creation of a water body can be properly considered as being no different than any other normal and routine relocation of prime farmland soils within a permit area during the reclamation and restoration process. Consequently, no exemption is necessary to allow this practice so long as the pre-mining prime farmland acreage in the permit area is not decreased, any water body created is located on the post-reclamation non-prime farmland portion of the permit area, and all resulting postmining prime farmland meets the soil reconstruction and productivity standards of Part 823. The ultimate effect of such relocation is that certain non-prime farmland soils will be replaced by the impoundment, and the post-mining prime farmland acreage is maintained and relocated within the permit area in a manner and to a degree which has been approved by regulatory authorities in the past.

Becaue OSMRE referred in the March 25, 1987 proposed rule to a provision for such a change in land use as a proposed exemption where the total acreage of prime farmland is not decreased in the permit area, OSMRE revised its position in the 1988 notice reopening the comment period to make clear that no exemption from the prime farmland criteria will be provided in these rules, since existing rules already allow relocation of prime farmland soils within the permit area.

One commenter stated that water impoundments can only be created through use of the alternative postmining land use provisions of the Act, and that this included the "higher or better use" test. This commenter was concerned that "* * * de facto automatic approval of end cut lake impoundments which sacrifice non-prime cropland" not be allowed. OSMRE agrees that the creation of water impoundments, where none existed previously, can be permitted only through the alternative land use provisions of the Act. Under this final rule that continues to be the only way that they can be allowed. Where non-prime farmland areas are found on permit areas, these areas may be subjected to land use changes, including the creation of water bodies, provided the alternative postmining land use requirements of 30 CFR 779.22, 780.23, 783.22, 784.15, 816.133, and 817.133 are met. No prime farmland would be left unreclaimed, however, and no prime farmland would be converted to impoundments. OSMRE believes that this approach fully addresses the concerns expressed by the district court and appeals court in *In re: Permanent II* and *NWF v. Hodel*.

Therefore, the final rules no longer treat the creation of water bodies as an

exemption to Part 823, but clarify existing practices.

As proposed in the March 23, 1988 notice reopening the comment period, § 785.17(e)(5) would have read as follows:

"(5) Where the permit area contains less than 100 percent prime farmland acreage, the aggregate total prime farmland acreage before and after mining shall not be decreased."

One regulatory authority commented that the proposed regulatory language, when not read in concert with the accompanying discussion, was not clear as to whether the relocation of prime farmland soils is authorized. Another regulatory authority felt the proposed language was awkward and unclear and provided suggested revised language. In addition, two other commenters seemed to have similar problems since both indicated they thought the proposed language could be interpreted to allow the amount of postmining prime farmland acreage in a permit area to be less than the premining amount for permit areas containing 100 percent prime farmland.

OSMRE indicated in its March 23, 1988 notice reopening the comment period that such an interpretation was not, in consideration of the appeals court decision, the intent of the proposal. However, the proposed language read independently of the preamble discussion could have been interpreted in such a manner.

Therefore, OSMRE is in agreement with these commenters and has revised the final rule language at § 785.17(e)(5) to read as follows:

"(5) The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained."

Although the rule language has been revised to address the creation of water bodies within permit areas which contain less than 100 percent prime farmland prior to mining, the net effect has not changed significantly from the March 25, 1987 proposal. This final rule continues to require prime farmland soils removed for water bodies to be separately removed, segregated and stockpiled, but not replaced within the impoundment. These prime farmland soils are to be reconstructed in the same way other prime farmland soils are reconstructed within the permit area and with the review and concurrence of the SCS.

One 1987 commenter stated that, in practical application, this rule would appear to authorize the disturbance of non-prime farmlands and destruction and reconstruction of the soils of borrow areas in order to maintain the pre- and post-mining prime farmland acreage, while allowing for final cut impoundments.

OSMRE does not intend this final rule to allow the disturbance of non-prime farmland areas which would not otherwise be disturbed by mining operations in order to create prime farmland as suggested by this commenter. Because excavated prime farmland soils are removed, stored, and replaced in conformance with Part 823, no borrow areas will be needed to create prime farmland. In other words, prime farmland soils may not be moved from a pre-mining location to a post-mining location within a permit area if the pre-mining area would not normally be disturbed in order to extract the coal. As previously described, when the shifting of the location of prime farmland soils is part of a complete mining and reclamation plan, such soil relocation will be kept to a minimum, will be reviewed and concurred in by the SCS, and must still meet the prime farmland soil reconstruction and bond release standards.

Two commenters objected to the 1987 proposed rule's adjustment of land uses within the permit area, claiming it is illegal because it allows a broad variance from the prime farmland rules. They claim the location of these impoundments has often had the effect of making impractical the large-scale farming of areas due to inappropriate location of the water bodies. They also claim there is no evidence in the record which shows impoundments to be necessary for prime farmland agricultural activity, there is scant data to support the technical capability to create prime farmlands from sub-prime farmlands, and the system proposed by OSMRE in 1987 would allow coal operators and land owners to make decisions to contravene the express intent of Congress.

OSMRE has no evidence that large-scale farming operations would be affected by any such change in location of prime farmland soils (either under the 1987 or the 1988 proposal), but under final § 785.17(e)(5) if the property owner/farmer is affected by such a change in the location of prime farmland soils, he will have the opportunity to approve or disapprove of the location change within the permit area before approval. This approval requirement ensures that the viability of farming operations will be considered in any decision to allow the relocation of prime farmland soils.

A number of comments were received on the issue of property owner consent. A 1987 commenter stated that there was no need for property owner consent where an impoundment is proposed as an alternative postmining land use because the premining and postmining prime farmland acreage remains the same. This commenter also noted that the rules should acknowledge that prior consent is acceptable including that found in existing leases. During the 1988 reopening of the comment period, commenters representing industry, environmental and citizen organizations and a regulatory authority remarked that the revised proposal should or must require property owner consent before a water body may be created. No comments were received in opposition to requiring property owner consent during the reopened comment period.

OSMRE agrees with the 1988 commenters and believes specific consent of the current property owner (or property owners) is desirable, especially where a permit area involves more than one property owner and prime farmland acres would be transferred between property owners. Furthermore, OSMRE's existing alternative postmining land use regulations at §§ 780.23(a)(4) and 816.133(c) already require consultation with the property owner. Accordingly, the 1988 proposed language has been revised and final § 785.17(e)(5) specifies that property owner consent is required.

Various commenters cited reasons why water bodies should be allowed under the conditions stipulated in the 1988 proposal. One regulatory authority remarked that the proposal creates no environmental degradation and may help in creating an agricultural system which is more sustainable than that which existed before relocation, because of the consolidation of small plots of prime farmland, added potential for irrigation, potential for aquaculture, and other uses. Another commenter provided copies of a number of studies which lend support to the proposal. According to this commenter, water bodies on prime farmland serve as a valuable resource for cropland uses, area drainage, recharge areas, and for many farm uses, including irrigation.

Other commenters were either opposed or had concerns about the proposal. One 1987 commenter claimed that an impoundment has a negative impact on agricultural productivity by creating physical barriers to normal

movement of farm machinery, by creating farmland areas too small to be economically tilled, and by creating greater water edges which are inherently less productive. For these reasons, this commenter claimed that impoundments have a far greater negative impact on overall productivity than simply replacing a certain number of acres of prime farmland with water. Two 1988 commenters also expressed concern about the possible negative effects of water bodies on prime farmland. One of the 1988 commenters claimed the presence of impoundments have a negative effect on prime farmland's economic viability, suitability for current farm techniques, and crop production, and therefore, that water impoundments are not needed for and can be detrimental to the restoration of prime farmland.

The other 1988 commenter was concerned about the effect of soil erosion on banks surrounding water bodies and about the water quality of such water bodies. This commenter cautioned that without proper design and attention to vegetative cover, water bodies can become sediment basins.

The potential for detrimental effects on prime farmland from nearby water bodies is minimized under these final rules. The requirement that prime farmland acreage remain undiminished after mining, coupled with the § 823.15 productivity requirements, should preclude the approval of a water body in a location that would result in detrimental effects on prime farmland soils. OSMRE agrees with the second 1988 commenter that proper design and attention to vegetative cover is necessary in the creation of water bodies. The existing performance standards at 30 CFR 816.49(b) require that appropriate measures be taken in this regard and the regulatory authorities under their approved State programs must require such measures prior to approving any reclamation plan which includes the creation of a water body. Furthermore although in some instances the presence of impoundments is capable of producing the negative effects claimed by these commenters, this is not universally true. As noted above, there has been considerable evidence submitted to the OSMRE administrative record which indicates that the opposite is often true. As a 1987 commenter asserted, water bodies can be needed and highly sought after, especially where there is a monoculture of cropland. The creation of water bodies on the non-prime farmland portions of permit areas is allowed only when the alternative postmining land use criteria of section 515(b) (2) and (8) of the Act have been met. Those provisions, coupled with the standards for restoration of productivity at 30 CFR 823.15, ensure that any impoundments created will not have a negative effect on prime farmland productivity.

Another 1987 commenter was skeptical of the likelihood of enhancing acreage classified as non-prime farmland to achieve prime farmland and suggested that OSMRE should have performance standards for creating prime farmland. This commenter pointed out that other portions of the prime farmland rules need to be amended to make the rule work, e.g. soil maps in permitting; avoid small isolated areas of prime farmland soils; the SCS should be involved in evaluating technological capability; soil removal, stockpiling, and replacement performance standards must be set forth in detail. This commenter stated that without these, the rule is not workable.

As described above, OSMRE, regulatory authorities and the SCS have had successful experience in moving prime farmland soils within permit areas. For instance, the natural progression of a typical surface mine in the mid-west will relocate prime farmland soils three to four spoil ridges from the original location when contemporaneous reclamation is practiced (that is, immediate soil removal and replacement where soil storage is not necessary). Also, in the past, OSMRE and the SCS have encouraged the physical relocation and consolidation of small odd-shaped parcels of prime farmland, thus benefitting the mine operator and property owner/farmer. The commenter, in suggesting small isolated areas of prime farmland soils be avoided, also implies that prime farmland soils are farmed differently than non-prime farmland soils, which is not the case. Typically, farms do not work isolated parcels of prime farmland soils any differently than the surrounding non-prime farmland soils. Therefore, since prime farmland soil boundaries are not delineated by legal or farming boundaries, such as fence rows or county lines, OSMRE expects that prime farmland soils would be farmed identically, without distinction or demarcation from the non-prime farmland soils. For example, a large field of wheat may contain only 40 percent prime farmland due to the topography and hydrology of the field; yet the field of wheat is farmed as one unit, rather than two units, one prime and one non-prime.

OSMRE believes that for economic reasons the mine operator will rebuild the prime farmland soils as close to the original prime farmland location as possible due to the cost of transporting soils. Where this displacement is part of a complete mining and reclamation plan, prime farmland soil displacement will be kept to a minimum, will be reviewed and commented upon by the SCS, and must still meet the prime farmland soil reconstruction and bond release standards. Contrary to the commenter's view, OSMRE believes that the present prime farmland soil reconstruction specifications, supplemented with the specific SCS soil reconstruction specifications for each State, are sufficient to guarantee equal or higher levels of soil productivity for relocated prime farmland soils. OSMRE does not see the need for an alternative set of soil reconstruction specifications for relocated prime farmland soils.

Three 1988 commenters addressed the issue of allowing the creation of water bodies which would replace prime farmland as the postmining land use. One commenter noted it would prefer the flexibility to construct a permanent impoundment without the necessity of creating compensating prime farmland. A second commenter was not sure whether OSMRE was in fact proposing an exemption for water bodies that are necessary or beneficial for cropland land uses. This commenter asked that it be given the opportunity to review and comment on any such proposal before implementation. The third commenter suggested that, provided the property owner consents, an exemption should be permitted to allow water bodies in lieu of prime farmland under any of the following circumstances:

1. Where the aggregate prime farmland acreage would be retained, or
2. The impoundment is necessary *or* beneficial for cropland use, or
3. There is another appropriate postmining land use for the impoundment.

Concerning the first circumstance, as described above, a water body may be placed at a location where there was prime farmland before mining, if the prime farmland acreage will be relocated and not reduced, the alternative postmining land use criteria are met, and property owner consent is obtained. Regarding the second circumstance, the court has indicated that a narrow exemption might be acceptable in situations where an impoundment is necessary *or* beneficial. OSMRE believes that whether an impoundment is necessary or beneficial is so dependent on site-specific factors

such as geology, hydrology, topography, soils, and climate that nationwide standards for creating such an exemption may not be practicable and, at a minimum would require much additional research before any attempt at promulgation. Therefore, the agency does not intend either to propose or to implement such an exemption at this time. The third circumstance, taken alone, would not provide an independent basis for an exemption in view of the court decisions that prime farmland can not be replaced by any other postmining land use.

Two 1988 commenters emphasized that the court rulings require that all prime farmland be reclaimed to prime farmland cropland postmining without any exceptions and, therefore, the prime farmland acreage in a permit area must be the same after mining as before mining.

OSMRE agrees that all prime farmland must be reclaimed to prime farmland cropland after mining. The final rule does not eliminate the requirement that all prime farmland be reclaimed to prime farmland cropland after mining. Although the final rule does not require that the prime farmland acreage in the permit areas always must be in the same location after mining as before, it does require that postmining prime farmland acreage never may be less than premining prime farmland acreage. Thus the rule is consistent with the Act.

Two commenters felt that proposed § 785.17(e)(5) was unnecessary. One of these commenters indicated that since existing § 785.17(e)(1) requires all prime farmland to be reclaimed to prime farmland cropland postmining that § 785.17(e)(5) was redundant. The other commenter indicated it thought OSMRE intended proposed § 785.17(e)(5) to allow a postmining decrease in prime farmland acreage in permit areas containing 100 percent prime farmland prior to mining. Thus the commenter concluded the 1988 proposal was illegal.

Since neither proposed nor final § 785.17(e)(5) allow a postmining decrease in the prime farmland acreage, the rule cannot be illegal for that reason.

OSMRE believes the rule is necessary for several reasons. First, the comments received during the public comment period, and especially during the March 23 to May 12, 1988 reopened comment period clearly indicate uncertainty as to whether and under what circumstances water bodies can be allowed on permit areas containing prime farmland. Second, there also appears to be uncertainty over whether and how the relocation of prime farmland during reclamation is authorized. Third, under typical geologic, hydrologic and topographic conditions, the most common type of permit area containing prime farmland will be the permit area with less than 100 percent prime farmland. For these reasons, whether and where water bodies may be located in permit areas containing prime farmland is linked to the practice of relocating prime farmland. Thus, the proper implementation of the prime farmland requirements of the Act for the typical permit area (containing less than 100 percent prime farmland) is critical for providing the protections Congress intended for prime farmland.

A commenter claimed that the question of when and where impoundments are permissible should not be addressed as part of this rulemaking because, in this commenter's view, the only legitimate provisions in prime farmland rules relating to impoundments are a clear prohibition of them as a postmining land use on prime farmland, and a requirement that their presence elsewhere not detract from prime farmland restoration. The commenter further contended that any rules providing for postmining relocation or consolidation of premining land classes, uses or capabilities should be part of a separate rulemaking specifically on that subject because any such effort in the context of this rulemaking would be illegal under the requirements for adopting federal regulations.

OSMRE disagrees with this commenter's views. As discussed above in response to those commenters who claimed § 785.17(e)(5) was unnecessary, the question of how and where impoundments are permissible on areas containing prime farmland is necessarily linked to this prime farmland rulemaking. Since many permit areas containing prime farmland contain less than 100 percent prime farmland, they will be candidates for the creation of water bodies. In light of the necessity to respond to the decision in *NWF* v. *Hodel*, and the uncertainty expressed by commenters on this rulemaking, clarification of how such situations are to be treated is both appropriate and necessary to this rulemaking.

More importantly, these rules are not intended to serve and do not serve to authorize the postmining relocation or consolidation of premining soils or uses. That authority already exists under current § 785.17(e)(1) which is not being revised by this final rule. As discussed previously the postmining relocation and/or consolidation of prime farmland has been and will continue to be a legitimate part of normal reclamation practice. This rulemaking merely clarifies for those interested parties who have been heretofore unsure, that such practices have been and continue to be authorized. It is intended, especially, to show that, under certain conditions, a water body legitimately approved under the alternative postmining land use provisions of the Act may be created and located where prime farmland existed prior to mining without resulting in the illegal replacement of prime farmland by a water body.

One commenter stated that all prime farmland must be restored to cropland and subject to the complete prime farmland requirements. OSMRE agrees. These final rules do not change that existing requirement.

This same commenter, addressing a related issue, claimed OSMRE has an obligation to ensure that reclamation plans and postmining land use plans for all permits containing prime farmland do not in any way limit the restoration and postmining productivity for every acre of prime farmland and that this responsibility includes a careful review of the interaction of prime farmland with other aspects of the permit. OSMRE agrees, all reclamation plans and postmining land use plans must not limit the restoration and postmining productivity of any prime farmland. This final rule does not change that existing requirement. However, in primacy states the regulatory authorities under their approved State programs, not OSMRE, have the primary responsibility to ensure that these requirements are met.

On yet another related subject, this commenter insisted that water bodies, if allowed as an alternative postmining land use on non-prime farmland, cannot be allowed to diminish prime farmland's farmability or productivity. OSMRE agrees that an alternative postmining land use on adjacent nonprime farmland must not diminish prime farmland's productivity. Section 510(d)(1) of SMCRA requires prime farmland soil to be restored, within a reasonable amount of time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management. This requirement is implemented by the performance standards at 30 CFR 823.15(b). Regulatory authorities have the responsibility to disapprove any alternative postmining land use plans they believe will preclude meeting the productivity standards. Therefore, if a regulatory authority determines that the location of a water body, as an alternative land use for non-prime farmland, would result in non-attainment of the § 523.15(b) productivity standards for nearby prime

farmland, it is the responsibility of that regulatory authority to reject the proposed alternative land use plan.

Lastly, a regulatory authority commenting on the 1987 proposed rules suggested that provisions are needed in § 785.17 to provide for an applicant to document if the exemption criteria of § 823.11(a)(1)(i) are met and, if so, to be excluded from the requirements of § 785.17 (c), (d), and (e). As detailed below, under discussion of Part 823, proposed § 823.11(a)(1)(i) has not been adopted in this final rule. If prime farmland is to be reconstructed elsewhere in the permit area, the applicable provisions of §§ 785.17 and 800.40 and Part 823 do apply to these relocated prime farmland soils.

B. Section 823.11 (a) and (b)—Special Permanent Program Performance Standards—Operations on Prime Farmland

Proposed 3 Percent Exemption for Surface Facilities

Proposed § 823.11(a)(1)(i) provided for an exemption from the prime farmland standards for those coal preparation plants, support facilities, and roads which are actively used over extended periods but which affect a minimal amount of land in connection with underground mines. The exemption proposed was for an area not to exceed 3 percent of the underground extraction area for the life of the mine. OSMRE received a number of comments critical of the proposed exemption.

Two commenters stated that the exemption allowed was excessive and irrational and that no rationale is presented for such an excessively large surface disturbance, especially since disposal areas are being treated independently of this exemption. One of these commenters asserted that current mines in Illinois would receive exemptions of 24 to 369 acres. The commenter believes OSMRE has provided no basis for demonstrating that increasing the real extent of underground workings necessarily increases the size of a preparation facility or of a road from the mine.

One regulatory authority pointed out that certain surface facilities, e.g. preparation plants, may be issued separate permits from those issued for one or more underground mines which ship their coal to that preparation plant. Also, some underground mines may contract their refuse removal and disposal to another party who is issued a separate permit to dispose of waste from that mine. In such situations the regulatory authority is dealing with one mine complex operated with multiple permits. Clearly, a standard such as the proposed 3 percent of permit area, makes little sense in respect to multiple-permit mine complexes.

One commenter suggest that OSMRE include a provision whereby the regulatory authority may expand the 3 percent spatial limit where unique circumstances exist. This commenter pointed out that OSMRE's choice of 3 percent spatial limitation arises from the mean for current permits within Illinois and that half of the operations contained in the survey already exceeded the mean. Therefore these operations were permitted under the existing standard for "affecting a minimal amount of land." This commenter felt that circumstances will arise where a well-planned mine will require greater spatial accommodation than the 3 percent standard, while still affecting a minimal amount of land.

Despite their different perspectives, each of these comments has some merit. Although OSMRE continues to believe that there is a rational basis for assuming that increases in the extent of underground workings correlate with an increased requirement for surface facilities area, it is no longer convinced, especially in view of the nature of the types of operations being separately permitted (i.e., not all permit areas are mines and an individual mining operation may be composed of several distinct permit areas), that the proposed 3 percent spatial limitation is either appropriate or practical to administer. OSMRE now believes that some other percent or some fixed acreage maximum related to entire mining operations, rather than to permit areas, would be more varied. It has become apparent from a review of the data currently available to OSMRE that the regulatory authority that commented about the relationship of permit areas to mines has raised a critical issue and that determining the appropriate exemption for a mining operation in a typical prime farmland State, such as Illinois, is not possible without collecting data on an operation by operation rather than on a permit basis. Such data is not currently available to OSMRE in a usable form. Therefore, OSMRE is postponing final rulemaking on this issue pending further study. Existing § 823.11(a), as modified by the February 21, 1985 suspension notice (50 FR 7278), is being retained in the interim.

Exclusion for Coal Mine Waste Storage Areas

Proposed § 823.11(a)(1)(ii) provided an exception from the exemption of proposed § 823.11(a)(1)(i). Final § 823.11(b) has replaced proposed § 823.11(a)(1)(i) and provides an exclusion from the prime farmland performance standards of Part 823 for coal mine waste storage areas associated with underground coal mines.

The exclusion for coal mine waste storage areas applies only where the coal mine waste from underground mines cannot be technologically and economically stored in underground mines or on non-prime farmland. The operator must continue to avoid prime farmland areas where possible, and must show that the waste cannot be stored underground or on non-prime farmland because of technological and economic factors. Also, the operator must minimize the surface area used for storing waste, and must restore these coal mine waste storage areas in accordance with the criteria found in § 817.83. The bond release criteria for these coal mine waste storage areas include the soils and revegetation requirements of §§ 817.22 and 817.111 through 817.116.

Justification for final § 823.11(b) is found in § 516 of SMCRA, which requires consideration of the distinct differences between surface and underground coal mining. Some of these differences with respect to coal mine water are: (1) The greater availability of disposal sites for coal mine waste at surface mines; (2) the technological and economic feasibility for placing the waste into the underground mining excavations; (3) the relative restrictions on waste storage related to health and safety of miners at surface and underground mines; and (4) current coal mine waste disposal techniques for surface and underground mines.

Coal mine waste disposal areas are more available at surface mines than at underground mines because of the surface operator's access to the open pit for waste disposal. Also, the need for coal mine waste storage areas for surface mines is generally less because proportionately less waste is created by surface mines. The technological and economic feasiblility of returning coal mine wastes to active or inactive underground coal mines is uncertain, as was reported in the National Academy of Sciences report "Underground Disposal of Coal Mine Wastes" (NAS, 1975). In the proposed rule, OSMRE specifically requested comment on the technological and economic feasibility of returning coal mine waste to active and inactive underground coal mine workings. Two commenters supported the exclusion for coal mine waste storage areas, while two did not.

One of the two commenters who opposed the proposed exclusion asserted that the disposal of coal development and processing waste is not unique to underground mining, the inclusion of an economic feasibility test for allowing waste disposal on prime farmlands makes protection of such lands servient of economic advantage, and the failure of OSMRE to set any limitations on the size or location of such waste disposal areas creates a direct conflict between such a proposal and the district court's decisions in *In re: Permanent* and *In re: Permanent II*. Both commenters agreed that section 516 allows a certain degree of flexibility in the adoption of standards for surface and underground mining based on the differences in the mining practices themselves, but not in the disposal of wastes common to both forms of mining. One of these commenters felt that waste disposal must occur by a return to underground workings, where approved, or by surface disposal on non-prime farmland areas. Another commenter, citing an article which appeared in the March 1986 edition of *Coal Age* Magazine, stated that evidence exists to suggest that on both technological and economic grounds, the disposal of coal mine waste to the underground workings is a feasible alternative.

OSMRE's position remains essentially as discussed at 48 FR 44015 on September 26, 1983, with respect to this issue. OSMRE disagrees with the commenter who believes that coal mine waste must be disposed only by a return to underground workings or by surface disposal on non-prime farmland areas. The Act does not contain such a requirement. The impact of coal mine waste from underground mines is regulated under section 516(b)(3) through (5) of SMCRA. Section 516(b)(3) requires the return of coal mine waste to the underground mine workings "to the extent technologically and economically feasible." Neither section 516(b)(4) nor (5), which establish requirements for the surface disposal of coal mine wastes, provides any specific protections for prime farmlands. Prime farmland protections are provided under section 515 of SMCRA, which applies to surface mines. Section 516(b)(10) makes section 515 applicable to those surface impacts of underground mining which are not specified in section 516(b). Since surface impacts of coal mine waste from underground mines are regulated in section 516(b), no further restrictions can be incorporated by application of section 516(b)(10), and the section 515 prime farmland standards do not apply to underground coal mine waste disposal sites. On January 29, 1988, in *NWF v. Hodel*, 839 F.2d 694 at pp. 739–741, the holding of the U.S. Court of Appeals (D.C. Cir.) was consistent with this concept. In ruling on an attempt by OSMRE to use section 516(b)(10) as the legal justification for applying the general restoration duties of the section 515 requirements, which otherwise only apply to surface mining, to surface lands damaged by subsidence, the district court held that "* * * section 516(b)(10) is triggered only by 'surface impacts not specified' " elsewhere in section 516(b). *NWF v. Hodel*, 839 F.2d at pp. 740–741. Thus, the surface disposal of coal mine wastes is not subject to the requirements to protect prime farmland found in section 515 of SMCRA and implemented at 30 CFR Part 823. Nevertheless, OSMRE is requiring in section 823.11(b) that the operator minimize the area of prime farmland used for surface disposal of that coal mine waste which cannot, for technological and economic reasons, be returned to the underground workings.

OSMRE also has examined the *Coal Age* article in question and concluded that it does not support the commenters' conclusion that disposal of coal mine waste to underground workings is a feasible alternative. The article reports that some technological progress has been made with pneumatic stowing methods and that as a result the economics are improving. Specifically, the article states that applications of pneumatic stowing "appear to be showing economic promise." Then, after stating "it is probably true that pneumatic stowing is currently still more costly than traditional [surface] disposal methods," the article concludes that the economic viability of pneumatic stowing may now have reached the point where for certain specific operations it may be desirable to examine the site specific economics.

More significantly, however, the article does not address other critical issues which are the concern of the Mine Safety and Health Administration (MSHA) and the Environmental Protection Agency (EPA). Each area proposed for coal mine waste storage must also be evaluated on the basis of site specific environmental, health, safety, and other considerations. Any plan to return coal mine waste to underground workings would require close coordination with both MSHA and EPA and must be arranged by the regulatory authority and coal mine operator. In most cases, the MSHA and EPA requirements, combined with what are, at least, the marginal economics of pneumatic stowing, will render the return of coal wastes to underground workings technologically and economically unfeasible. An extensive discussion of MSHA and EPA concerns was published at 48 FR 44015 (September 26, 1983). Therefore, OSMRE remains unconvinced that underground waste disposal is consistently or typically a viable nationwide alternative.

One State regulatory authority commented that the determination of technologic and economic feasibility will likely result in very subjective and inconsistent evaluations by regulatory authorities, and suggested that further guidance is needed. However, since the phrase "technologically and economically feasible" is the precise wording of section 516(b)(3) of the Act, OSMRE believes that any determination of the technological and economic feasibility of returning coal mine wastes to underground workings must be performed by the regulatory authority, which must consider all relevant information provided by the coal mine operator when the regulatory authority reviews the mining and reclamation plans. As described in the March 1986 *Coal Age* article discussed above, the technological and economic evaluation of this alternative is extremely complex and must be evaluated on a site-by-site basis. OSMRE believes that no further guidance is possible or appropriate at the national level because of the site-specific nature of this problem.

Two commenters supported this exclusion. In expressing support, one of the two noted that the technological and economic feasibility of returning coal mine waste to active and inactive underground coal mine workings remains limited. In this context, the commenter mentions that the technological and economic feasibility of returning such waste to underground workings is dependent on whether the approval of both MSHA and EPA can be obtained. As OSMRE has indicated above, such approval is often unobtainable.

This same commenter also suggested that slurry ponds should be recognized as part of the coal mine waste exclusion. OSMRE agrees and refers the reader to 48 FR 44009–10, September 26, 1983, where an extensive discussion of "coal processing waste," "coal mine waste," and "impounding structures" can be found. The discussion found there clarifies that the term "impoundments" includes dams and embankments designed to hold coal mine waste slurry or sediment in a semi-liquid state. The coal mine waste impounding structure

rules augment and do not replace the rules governing impoundments.

A regulatory authority was unclear as to whether coal refuse disposal areas would be included in this exclusion. OSMRE believes that a "refuse pile" may contain coal processing waste and/or underground development waste, both of which are included in this exclusion, providing that they are derived form underground sources. (48 FR 44010, September 6, 1983)

Another commenter had no objections to the proposed rule provided that OSMRE clarified that the waste disposal area includes areas where soil cover is obtained to meet the requirements of § 817.83 when sufficient cover cannot be obtained immediately below the coal waste or from nonprime farmland areas. OSMRE's rule at § 817.83(c)(4) requires that waste disposal areas are to be covered by 4 feet of the best available material, or less than 4 feet as approved by the regulatory authority if there is a demonstration that the coal mine waste storage area will meet the revegetation and environmental protection provisions of the revegetation rules at §§ 817.111 through 817.116. In conformity with the requirements of § 817.83(c)(4), it is appropriate for the regulatory authority to consider site-by-site variations. Nevertheless, OSMRE does not intend to require, and does not expect the regulatory authority to require, the operator to create borrow areas to obtain cover materials, unless such borrow areas are necessary to prevent combustion or ensure that the revegetation requirements are met. Also, since these coal mine waste storage areas are created pursuant to section 516(b)(3) through (5), they are excluded from the prime farmland soil reconstruction and productivity requirements of 30 CFR 823.14 and 823.15, as those requirements implement section 515 of SMCRA.

C. Proposed § 823.11(a)(2)—"Grandfathered" Prime Farmland

Existing § 823.11(c) states that the requirements of Part 823 are not applicable to prime farmlands that have been excluded in accordance with § 785.17(a) of this Chapter, that is, "grandfathered" prime farmland.

On March 25, 1987 (52 FR 9644), OSMRE proposed to redesignate existing § 823.11(c) as § 823.11(a)(2). This final rule does not require § 823.11(c) to be redesignated. No change other than redesignation was proposed or contemplated. Therefore, the "grandfathered" prime farmland provisions of the May 12, 1983 final rules remain unchanged, and at § 823.11(c).

D. Proposed § 823.11(b)—Water Body Exemption

As described at length above, proposed §§ 823.11(b) and 785.17(e)(1) if adopted, would have provided an exemption from the prime farmland performance standards for water bodies that have been approved by the regulatory authority as an alternative post-mining land use as long as the same number of prime farmland acres before mining were reconstructed after mining. Proposed § 823.11(b) would have excluded those areas on which impoundments were authorized by proposed § 785.17(e)(1) from the soil reconstruction and productivity requirements of §§ 823.14 and 823.15, respectively. In practice, however, that exemption would have been almost meaningless in view of the requirement of § 785.17(e)(1) that the same number of prime farmland acres be present postmining as premining. That requirement, as a practical matter, would have necessitated the relocation and reconstruction of those prime farmland soils elsewhere in the permit areas.

During the reopened comment period two commenters supported the elimination of proposed 30 CFR 823.11(b) which would have exempted impoundments from the soil replacement and proof of productivity requirements for prime farmlands. One of those commenters felt that the notice of reopening of the comment period did not clearly withdraw that proposed language.

The 1988 notice of reopening of the comment period did propose the withdrawal of 30 CFR 823.11(b) and, more importantly, this final rule does withdraw proposed 30 CFR 823.11(b) as supported by these commenters.

As this final rule clarifies, operators are allowed to remove, store, and utilize elsewhere in a permit area prime farmland soils disturbed in mining for coal. Section 785.17(e)(1) in conjunction with §§ 823.12, 823.14, and 823.15, which require prime farmland soils removed for water bodies to be separately removed, segregated and stockpiled, but not replaced within the impoundment, produces this result. These prime farmland soils are reconstructed in the same way other prime farmland soils are reconstructed within the permit area and with the review and comment of the USDA, Soil Conservation Service and the concurrence of affected property owners within the permit area. Thus, there is no impermissible broad variance from the prime farmland standards because prime farmland soils are removed, stored, and replaced in accordance with Part 823 and the same or greater number of prime farmland acreas are restored within the permit area after mining than there were before mining.

As indicated above, proposed § 823.11(b) has been withdrawn.

E. Sections 823.12(c)(2) and 823.14(d)—Soil Removal and Stockpiling; Soil Replacement—Exceptions for B and C Soil Horizons Which Otherwise Would Not Be Removed by Mining Activities

Section 515(b)(7) of SMCRA requires that for all prime farmlands to be *mined and reclaimed*, the Secretary of Agriculture shall establish specifications for soil removal, storage, replacement, and reconstruction, and that the mine operator shall be required to segregate, store, and replace prime farmland soils. This provision is implemented in 30 CFR 823.12 and 823.14. However, in areas that are not mined and where the B and C soil horizons would not otherwise be removed, such as areas beneath surface support facilities, B and C horizon removal and segregation may serve little purpose. Therefore, final §§ 823.12(c)(2) and 823.14(d) authorize the regulatory authority to approve an exception from the requirement to remove and reconstruct the B and C soil horizons when the B and C horizons would not otherwise be removed by mining activities. Although the B and C soil horizons would not be removed under this final rule, as indicated in the Secretary's Memorandum in support of crossmotion for summary judgment, filed December 21, 1979, at pp. 100–101 (*In re: Permanent*), the requirement to reestablish the productive capacity of the prime farmland soil must still be met. In its *In re: Permanent* opinion, the court summarized the soil handling requirements in such situations as follows: "[A]n operator need only engage in deep tilling to restore compacted land to prime farmland where support facilities have compacted the soil. The operator would still, however, be required to engage in a pre-application investigation and also comply with the permit and bonding requirements." (*In re: Permanent* at 3, footnote 4.)

OSMRE agrees with the court's summary, but also recognizes that there may be instances when the B or C soil horizons may need to be protected from chemical or other types of contamination in order to achieve the applicable vegetative cover and productivity required by §§ 800.40 and 823.15. Under existing § 816.22(e), as well as under Part 823, the regulatory authority could require that the B or C

soil horizons be separately removed, segregated, stockpiled, and replaced to ensure retention of soil capabilities. The regulatory authority also could provide the operator the option to preserve the productive capacity of prime farmland soils in place by taking measures such as placing a protective barrier between the surface coal mining activity causing contamination and the B and C soil horizons.

Three commenters approved of this exception, while one commenter objected. One commenter felt that this exception is absolutely necessary in light of OSMRE's proposal to restrict substantially the support facility exemption from the prime farmland standards. Another commenter, a regulatory authority, concurred. However, it stated that special provisions should be made for leaving the A horizon in place for minor disturbances such as in § 816.22(a)(3). This regulatory authority believes that § 816.22(a)(3) is applicable to prime farmland situations as well. OSMRE agrees with this regulatory authority that the narrow exceptions allowed for insignificant disturbances of topsoil also refers to prime farmland soils. See 48 FR 22094, May 16, 1983, which applies to all topsoil, including that of prime farmland, for a full discussion of this concept.

Another commenter stated that this blanket exception is inappropriate and inconsistent with the Act. This commenter stated that while there may be situations in which B and C soil horizon removal may not be necessary, there are other circumstances in which it is necessary. This commenter's concerns are about soil compaction, soil horizon loss, and soil chemical contamination. This commenter also felt that protection of the from contamination should be incorporated into the regulations and not simply noted in the preamble. OSMRE agrees and has added the phrase "* * * and where soil capabilities can be retained" to § 823.12(c)(2). In this manner prime farmland sub-soils will be protected from all forms of contamination as well as compaction.

F. Section 823.15(b)—Prime Farmland Soil Productivity

Neither OSMRE's 1987 proposal nor its 1988 revised proposal attempted to make any changes to the revegetation success standards for reconstructed prime farmland found at 30 CFR 823.15(b). Nevertheless, a regulatory authority commenting during the reopened comment period recommended OSMRE develop a rulemaking which would allow the evaluation of soil properties to be used as an alternative to cropping for demonstrating the productivity potential of reconstructed prime farmlands.

As mentioned above, existing § 823.15(b) requires, as the measure of soil productivity, the actual growth of crops. Before revegetation will be accepted as successful, average yield of the restored soil over a period of three or more crop years must equal or exceed the average yield of a carefully selected comparison area. The legality of this requirement was challenged by Industry in *In re:Permanent II* and the U.S. District Court upheld OSMRE's position as a reasonable exercise of its discretion. Industry subsequently appealed the district court's decision to the U.S. Court of Appeals, D.C. Circuit. On January 29, 1988 the appeals court upheld the district court decision. See *NWF v. Hodel* at 718. While OSMRE is not incorporating the suggested change, when the necessary techniques are available to use surveys of reconstructed prime farmland soils for the purpose of predicting productivity OSMRE will consider such a rulemaking. However, in consideration of the uncertainty surrounding the method suggested, OSMRE does not intend to propose any change to the requirements of § 823.15(b) at this time.

Reference Material

Coal Age, Vol. 21, No. 3, March 1986, Pneumatic Stowage Becomes Affordable, 5 pp., James M. Roberts et al. (See Administrative Record.)

NAS (National Academy of Sciences), 1975, Underground disposal of coal mine wastes, 172 pp. (See Administrative Record No. 406.)

Office of Technology Assessment, Congress of the United States, December, 1985, Staff Memorandum, Reclaiming Prime Farmlands and Other High-Quality Croplands After Surface Coal Mining, 143 pp. (See Administrative Record No. 1005E.)

Economic Research Service, U.S. Department of Agriculture, August, 1981, Rural Development Research Report Number 29, Coal Development in Rural America—The Resources at Risk, 84 pp. (See Administrative Record No. 919E.)

Effect In Federal Program States

The final rules are applicable through cross-referencing in those States with Federal programs. This includes California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. OSMRE specifically requested comment as to whether unique conditions exist in any of these Federal program States which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal programs. No comments were received in response to this request.

III. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these final rules according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that these are not major rules within the standards established by the Executive Order and, therefore, no regulatory impact analysis is required. These rules allow certain exclusions from the prime farmland soil reconstruction provisions of Part 823, thus lessening the regulatory burden in special situations for coal preparation plants, support facilities and roads, and certain coal waste disposal areas associated with underground mining.

Federal Paperwork Reduction Act

There are no information collection requirements in these final rules requiring review by the Office of Management and Budget under 44 U.S.C. 3507.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the final rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) on the impacts on the human environment of this rulemaking. This EA is on file in the OSMRE Administrative Record at the address listed in the "Addresses" section of this preamble.

Authors

The authors of this regulation are Dermot M. Winters and Donald F. Smith, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; telephone Mr. Winters at (202) 343–1928 (Commercial or FTS).

List of Subjects

30 CFR Part 785

Reporting and recordkeeping requirements, Surface mining, Surface Mining Reclamation and Enforcement Office, Underground mining.

30 CFR Part 823

Agriculture, Environmental protection, Surface mining, Surface Mining Reclamation and Enforcement Office, Underground mining.

Accordingly, 30 CFR Parts 785 and 823 are amended as follows:

Date: August 26, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 785—REQUIREMENT FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

1. The authority citation of Part 785 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*; Pub. L. 100–34.

2. Paragraph (e) of § 785.17 is amended by adding a new paragraph (e)(5) to read as follows:

§ 785.17 Prime farmland.

* * * * *

(e) * * *

(5) The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained.

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

3. The Authority citation for Part 823 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*; Pub. L. 100–34.

4. Section 823.11 is amended by removing the suspension of paragraph (b) and revising it and republishing the introductory text to the section to read as follows:

§ 823.11 Applicability.

The requirements of this part shall not apply to—

* * * * *

(b) Disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland. The operator shall minimize the area of prime farmland used for such purposes.

* * * * *

5. The first sentence of § 823.12(c)(2) is revised to read as follows:

§ 823.12 Soil removal and stockpiling.

* * * * *

(c) * * *

(2) Separately remove the B or C soil horizon or other suitable soil material to provide the thickness of suitable soil required by § 823.14(b), except as approved by the regulatory authority where the B or C soil horizons would not otherwise be removed and where soil capabilities can be retained. * * *

* * * * *

6. Section 823.14(d) is revised to read as follows:

§ 823.14 Soil replacement.

* * * * *

(d) The operator shall replace the B horizon, C horizon, or other suitable material specified in § 823.12(c)(2) to the thickness needed to meet the requirements of paragraph (b) of this section. In those areas where the B or C horizons were not removed but may have been compacted or otherwise damaged during the mining operation, the operator shall engage in deep tilling or other appropriate means to restore pre-mining capabilities.

* * * * *

[FR Doc. 88–23848 Filed 10–17–88; 8:45 am]

BILLING CODE 4310–05–M

federal register

Tuesday
October 18, 1988

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 139

Airport Certification; Extension of Certain Compliance Dates; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. 24812; Amdt. No. 139-14]

RIN (2120-AA-10)

Airport Certification; Extension of Certain Compliance Dates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of compliance dates.

SUMMARY: This amendment extends the compliance date for certain new requirements applicable to airports certificated under 14 CFR Part 139. In the November 18, 1987, issue of the **Federal Register** (52 FR 44276), the FAA published a final rule revising and reorganizing 14 CFR Part 139. The final rule was effective on January 1, 1988. Subsequent to the issuance of the final rule, numerous airports have petitioned the FAA for exemption from various requirements of the rule. Three new requirements have generated the overwhelming percentage of the petitions. The petitions for exemption have requested additional time to permit the airports an opportunity to come into compliance. The FAA has concluded that the exemption process is an unnecessarily burdensome and inefficient approach for providing an adequate transition period. This document serves to address the problem by amending the final rule published November 18, 1987, to extend the compliance dates for these three requirements to permit airports an opportunity to come into compliance without the need for obtaining an exemption.

EFFECTIVE DATE: October 18, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Jr., Safety and Compliance Division (AAS-300), Office of Airport Standards, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8724.

SUPPLEMENTARY INFORMATION: On November 18, 1987, the FAA published a final rule revising and reorganizing 14 CFR Part 139. The final rule resulted in numerous changes in the requirements applicable to certificated airports. Subsequent to the issuance of the final rule, the FAA has received in excess of 600 petitions for exemption. The majority of petitions involve runway marking and lighting (14 CFR 139.311), training of personnel in emergency medical care (14 CFR 139.319(j)(4)), or training of fueling personnel in fire safety (14 CFR 139.321(b)(6)).

With respect to the marking and lighting provision, the FAA recognizes that immediate compliance with the new requirements by all airports is not possible. Indeed, the preamble in the notice of proposed rulemaking (NPRM) stated that the "FAA would work with airports whose lighting and marking systems do not comply with current standards to bring them into compliance over a 4 to 5-year period." 50 FR 43097. However, at the NPRM stage the FAA believed that "the vast majority of affected airports have these lighting and marking systems." 50 FR 43097. It was envisioned that those airports not in compliance would be granted exemptions pending completion of the needed airport improvements over the next several years.

It is now clear that a significant number of airports do not meet the marking and lighting requirements in at least some fashion, thus making the exemption approach to noncompliance burdensome and inefficient for both airports and the FAA. Indeed, given the large number of airports requiring exemptions, general rulemaking is a far more appropriate administrative approach. The extension of the compliance date will permit airports to come into compliance within the time period identified in the NPRM and without the burden of the exemption process. The amended rule makes clear, however, that marking and lighting systems that are on the airport must be maintained.

Similarly, the limited extension in the compliance date for the two training requirements is designed to better transition from the previous rule requirements to those of the current rule. While there is already substantial compliance with the training provisions, scheduling and completing the training for the remaining individuals will take several more months. Neither the FAA nor the commenters to the NPRM fully appreciated the logistical implications of these otherwise straightforward requirements.

Notice and Public Procedure

Since this final rule merely extends the compliance date for three provisions of a regulation recently issued after an extended rulemaking process, addresses issues fully explored in the process, and imposes no additional burdens on any person, the FAA has determined that notice and public procedure are not necessary. Furthermore, since this final rule involves a situation requiring immediate action to relieve the burden on airports to petition for exemptions, notice and public procedure are also impractical. This final rule shall become effective in less than 30 days to avoid the burden that would otherwise be imposed on airports and the FAA by adherence to the exemption process.

Trade Impact Statement

This final rule affects only domestic airports subject to Part 139 of the Federal aviation regulations. Accordingly, this rule has no impact on trade opportunities for U.S. firms doing business in the United States.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Conclusion

The FAA has determined this final rule will not impose any costs on airport operators. The FAA has not quantified any specific economic benefits from the final rule, although it is expected that the rule will save airport operators some time and expense by eliminating the need to petition for exemptions. For this reason, it has been determined that the expected economic impact of the amendment is so minimal that a full Regulatory Evaluation is not warranted. Therefore, the FAA has determined that this final rule involves a regulation which is not major under Executive Order 12291. The FAA has determined also that this final rule is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this final rule would not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 139

Air carriers, Aircraft, Airports, Airplanes, Air Safety, Aviation Safety, Air Transportation, Helicopters, Heliports, Rotocraft, Safety, Transportation.

The Amendment

In consideration of the foregoing, 14 CFR Part 139 is amended as follows:

PART 139—[AMENDED]

1. The authority citation for Part 139 continues to read as follows:

Authority: 49 U.S.C. 1354(a) and 1432; 49 U.S.C. Section 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

§ 139.311 [Amended]

2. In § 139.311, paragraph (f) is added to read as follows:

* * * * *

(f) Not withstanding paragraphs (a) and (b) of this section, a certificate holder is not required to provide the identified marking systems or lighting systems until January 1, 1991. Each certificate holder shall maintain each marking system and lighting system that meets paragraphs (a) and (b) of this section.

§ 139.319 [Amended]

3. In § 139.319, the first sentence of paragraph (j)(4) is revised to read as follows:

* * * * *

(j) * * *

(4) After January 1, 1989, at least one of the required personnel on duty during air carrier operations has been trained and is current in basic emergency medical care. * * *

§ 139.321 [Amended]

4. In § 139.321, paragraph (b)(6) is revised to read as follows:

* * * * *

(b) * * *

(6) After January 1, 1989, training of fueling personnel in fire safety in accordance with paragraph (e) of this section.

Issued in Washington, DC on October 12, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88–23951 Filed 10–17–88; 8:45 am]

BILLING CODE 4910–13–M

federal register

Tuesday
October 18, 1988

Part IV

Department of Agriculture

Agricultural Marketing Service

Public Hearing Regarding the Madison and Live Oak, Florida Tobacco Markets; Notice

Public Hearing Regarding the Madison and Stoneville, North Carolina Tobacco Markets; Notice

Public Hearing Regarding the Williamston and Robersonville, North Carolina, Tobacco Markets; Notice

Public Hearing Regarding the Williamston and Robersonville, North Carolina, Tobacco Market Notice

Tuesday
October 19, 1926

Part IV

Department of Agriculture

Agricultural Marketing Service

Public Hearing Regarding the Markets at Williamston and Robersonville, North Carolina, for Flue-Cured Tobacco

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-88-109]

Public Hearing Regarding the Madison and Live Oak, Florida Tobacco Markets

Notice is hereby given of a public hearing regarding the Madison and Live Oak, Florida tobacco markets.

Date: November 7, 1988.

Time: 10 a.m. local time.

Place: Madison County Courthouse, Main Street, Madison, Florida.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Madison and Live Oak, Florida. The application was made by Paul Ragans, President, Madison County Tobacco Warehouse, Inc., Madison, Florida, Ralph Duncan, Operator, Freeman Brothers Tobacco Market, Madison, Florida, and Edwin and R.C. Freeman, Owners, Freeman Brothers Tobacco Market, Madison, Florida.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23956 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

[TB-88-107]

Public Hearing Regarding the Madison and Stoneville, North Carolina Tobacco Markets

Notice is hereby given of a public hearing regarding the Madison and Stoneville, North Carolina, tobacco markets.

Date: November 10, 1988.

Time: 10 a.m. local time.

Place: Courtroom of the Municipal Building, Route 220 N. (Business) Madison, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Madison and Stoneville, North Carolina. The application was made by Garland Rakestraw, Piedmont Warehouse, Stoneville, North Carolina; Ray White, New Madison Tobacco Warehouse, Madison, North Carolina, and Keith Stovall, Sharpe and Smith Warehouse, Madison, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23958 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

[TB-88-108]

Public Hearing Regarding the Williamston and Robersonville, North Carolina, Tobacco Markets

Notice is hereby given of a public hearing regarding the Williamston and Robersonville, North Carolina, tobacco markets.

Date: November 9, 1988.

Time: 10 a.m. local time.

Place: Superior Court Courtroom, Martin County Governmental Center, Main Street, Williamston, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Williamston and Robersonville, North Carolina. The application was made by John M. Rogers, Rogers Warehouse, Williamston, North Carolina; William C. Lilley, New Dixie Warehouse, Williamston, North Carolina; Harry T. Gray, Gray's Red Front and Central Warehouse, Robersonville, North Carolina and H. Edwin Lee, Hardee Warehouse, Robersonville, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23957 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

federal register

Tuesday
October 18, 1988

Part V

Department of Transportation

Urban Mass Transportation Administration

49 CFR Part 663

Pre-award and Post-delivery Audits of Rolling Stock Purchases; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 663

[Docket No. 88-H]
RIN 2132-AA29

Pre-award and Post-delivery Audits of Rolling Stock Purchases

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 319 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, directs the Urban Mass Transportation Administration (UMTA), by delegation from the Secretary of Transportation, to issue regulations requiring pre-award and post-delivery audits of rolling stock purchases made with Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended. The audits are for the purpose of assuring compliance with Federal motor vehicle safety standards, Federal "Buy America" requirements, and bid specifications. Accordingly, this notice of proposed rulemaking seeks comment on this proposed regulation which would require pre-award and post-delivery audits of rolling stock purchases.

DATE: Comments should be received by December 19, 1988.

ADDRESS: Comments should be addressed to: Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, Docket No. 88-H, 400 Seventh Street SW., Room 9316, Washington, DC 20590. Comments will be available for review by the public at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel Duff, Assistant Chief Counsel, Office of the Chief Counsel, (202) 366-4063, or Albert L. Neumann, Senior Mechanical Engineer, Office of Grants Management, (202) 366-1638.

SUPPLEMENTARY INFORMATION:

I. Discussion

A. Background

The quality of mass transportation service depends in large part on the quality of the equipment used. Inspection of equipment at the time of its purchase for compliance with the buyer's requirements is essential to ensuring quality mass transportation. Such inspection also assists in ensuring the proper use of Federal financial assistance. UMTA requires a recipient of Federal financial assistance to provide adequate technical inspection and supervision of all work in progress when it purchases equipment. UMTA permits this inspection and supervision to be done directly by the recipient or through technical consultants. The cost of the technical inspection and supervision has always been eligible for UMTA funding. Additionally, UMTA requires that recipients comply with all the terms of their grant agreements, applicable statutes, codes, ordinances and safety standards.

Because Congress was concerned about the quality of mass transportation equipment purchased with Federal financial assistance, and the inspection and verification procedures used in the procurement process, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, mandated pre-award and post-delivery audits with respect to any UMTA grant for the purchase of buses or other rolling stock. Specifically, section 319 of that Act directs UMTA, by delegation from the Secretary, to require pre-award and post-delivery audits to ensure compliance with Federal motor vehicle safety requirements, the Buy America requirements of section 165 of the Surface Transportation Assistance Act of 1982, as amended, and the recipient's own specified bid requirements. Additionally, section 319 provides that UMTA must require independent inspection and audits, noting that a manufacturer's certification of compliance with certain requirements is not sufficient. This notice of proposed rulemaking is issued to implement section 319.

B. The Proposed Regulation

The provisions of section 319 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 require a recipient of Federal financial assistance to take steps to ensure the quality of the equipment it purchases with that assistance. While section 319 applies to funds made available under the Urban Mass Transportation Act of 1964, as amended, UMTA intends to extend the coverage of the proposed regulation to purchases of revenue-producing rolling stock with funds available under 23 U.S.C. 103(e)(4) and section 14 of the National Capital Transportation Act of 1969, as amended (Stark-Harris legislation; Pub. L. 96-184). UMTA does this under the general authority available to the Secretary provided in the UMT Act and under the other two laws. UMTA believes that this consistency in approach will enhance the Federal oversight of the transit program.

The audits required by section 319 are to function as a double check for compliance with existing requirements. While Congress made it clear that a certification from a manufacturer would not meet the requirements of section 319, language in the bill's conference report also provides that "[i]t is the intent of the Conferees that any paperwork requirements imposed by this provision will not create a significant cost burden." (House Report 100-27, p. 231.) In an effort to limit the cost burden on grantees, the proposed regulation would allow the use of certifications by the grantee with independent support documentation whereever possible. These certifications would be similar to other self-certifications UMTA currently uses under the section 9 program, and would be maintained as part of a grantee's files and subject to UMTA verification during the triennial review process or other UMTA audit or grant oversight review.

Consistent with the provision's legislative history, the proposed regulation's application is limited to rolling stock which carries passengers in revenue service (House Report 99-665, p. 74). The proposed regulation would affect the procurement of transit vehicles generally considered to be revenue rolling stock, including buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, and vehicles for fixed guideways and incline planes. The proposed regulation would not affect the procurement of vehicles used for maintenance purposes, or other rolling stock which does not carry passengers in revenue service. UMTA recognizes that cars and vans are certified for safety by the manufacturer and that such certification is routinely accepted for other government purposes. UMTA requests comment on whether cars and vans should be treated differently than other rolling stock for purposes of safety certification.

C. Section-By-Section Analysis

The proposed regulation is divided into three subparts. Subpart A sets out general information on the audit requirements. Subpart B describes the pre-award audit and Subpart C describes the post-delivery audit.

Subpart A has general information about the audit requirements. Sections 663.1 and 663.3 set out the purpose and scope of the regulation. Section 663.5 defines the terms used in the regulation, including "revenue service" and "rolling stock". Section 663.7 sets out the pre-award and post-delivery requirement of section 319 of the Surface Transportation and Uniform Relocation

Assistance Act of 1987. Section 663.9 reflects the language of section 319 of the Act and lists the three components of the required audits. The audits are to verify compliance with (1) applicable Federal safety requirements, (2) Buy America requirements, and (3) bid specifications. This section also states that these audits are separate from the single annual audit required by the Office of Management and Budget. In order to be consistent with the law, the proposed regulation uses the term "audit" to refer to the reviews mandated by the law. However, UMTA does not intend that the standards used for financial audits should be used on audits under this proposed regulation. Section 663.11 reflects UMTA's position that the costs of testing and auditing a rolling stock purchase are eligible costs of an UMTA grant. Section 663.13 provides that this regulation does not change the compliance or verification of compliance provisions of the Buy America regulation in 49 CFR Part 661, but is in addition to them.

Subpart B sets out the specifics of the pre-award audits. Section 663.21 specifies that a pre-award audit must be complete before a recipient enters into a formal contract to purchase the rolling stock.

Section 663.23 explains that a pre-award audit consists of a report with three separate certifications regarding each of the three items listed in section 319: A safety certification, a Buy America certification, and a purchaser's requirements certification.

Section 663.25 describes the safety certification. The safety certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock the recipient is purchasing has been tested by an independent laboratory and found to comply with all applicable Federal motor vehicle safety standards. In some cases, the National Highway Traffic Safety Administration (NHTSA) may have tested a vehicle for compliance. If this is so, a certification from NHTSA may be substituted for that of the independent laboratory. UMTA recognizes that not all rolling stock which would be audited under this part is subject to the Federal motor vehicle safety standards and the regulation provides for certification of non-applicability. In order to avoid duplication of effort, this section also provides that a laboratory or NHTSA may reissue a safety certification it issued for one recipient if another recipient is purchasing the same rolling stock. It was of particular concern to Congress that transit agencies be able to share this information. (House Report 99–665, p. 74.) This provision attempts to address that concern.

Section 663.27 describes the pre-award Buy America certification. The pre-award Buy America certification must be made by a person who is not an agent or employee of the manufacturer and it must state that there is a letter from UMTA which determines that the rolling stock to be purchased has received a waiver under the Buy America requirements or that the person making the certification is satisfied that the rolling stock to be purchased meets the Buy America requirements of 49 CFR Part 661. Before a person can make this certification, the person must have reviewed documentation provided by the manufacturer as to the cost of the components and subcomponents of the rolling stock, their country of origin and the location of final assembly and the activities that will take place at that location. UMTA anticipates that the review required by this section will be performed by an independent contractor in most instances since the information that must be reviewed is generally considered proprietary. However, a recipient may perform the review required by this section if the manufacturer will provide the recipient with the information necessary.

Section 663.29 describes the pre-award purchaser's requirements certification. The pre-award purchaser's requirements certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock to be purchased meets the purchaser's requirements as set out in the bid specifications or request for proposals.

Subpart C sets out the specifics of a post-delivery audit. Section 663.31 specifies the time period for the post-delivery audit. This post-delivery audit is in addition to the in-plant inspections which are done throughout the manufacturing process.

Section 663.33 describes the post-delivery audit, which consists of a post-delivery Buy America certification and a post-delivery purchaser's requirements certification. The regulation does not require a post-delivery safety certification because the pre-award safety certification is based on documentation regarding the particular model purchased. However, the post-delivery purchaser's requirements certification must be based on visual inspection and operational testing of the rolling stock. It is UMTA's position that the pre-award audit of safety standards combined with the purchaser's visual inspection and operational testing should adequately ensure compliance with Federal motor vehicle safety requirements.

Section 663.35 describes the post-delivery Buy America certification. The post-delivery Buy America certification must be made by a person who is not an agent or employee of the manufacturer and, like the pre-award Buy America certification, must state that there is a letter from UMTA which determines that the rolling stock to be purchased has received a waiver under the Buy America requirements or that the person making the certification is satisfied that the rolling stock to be purchased meets the Buy America requirements of 49 CFR Part 661. Before a person can make this certification, the person must have reviewed documentation provided by the manufacturer as to the cost of the components and subcomponents of the rolling stock, their country of origin and the location of final assembly and the activities that took place at that location.

Section 663.37 describes the post-delivery purchaser's requirements certification. The post-delivery purchaser's requirements certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock received has been visually inspected and operationally tested and determined to meet the terms of the contract. Visual inspection would include verifying design features and could even include looking at the label on the seats to see if they are marked with their country of origin and that the country of origin matches the documentation supplied for the post-delivery Buy America certification. Operational inspection would include making sure the various systems and ancillary equipment all work at the time of delivery.

Section 663.39 prohibits the recipient from finally accepting the rolling stock if it cannot certify that the rolling stock meets applicable Buy America requirements. The section also states that the recipient does not have to accept the rolling stock if the recipient cannot certify that the rolling stock meets the terms of the contract.

D. Request for Comments

Accordingly, this notice of proposed rulemaking seeks comment on this proposed regulation requiring pre-award and post-delivery audits of rolling stock purchases. Because Congress was concerned that this regulation not impose a significant cost burden, UMTA particularly seeks comment on the anticipated cost of compliance with the proposed regulation, as published today.

Commenters wishing acknowledgement of their comments should include a self-addressed, stamped postcard with their comments. The Docket Clerk will stamp the card with the date and time the comments are received and return the card to the commenter.

II. Regulatory Impacts

A. Executive Order 12291

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in an annual effect on the economy of $100 million or more.

B. Regulatory Evaluation

This regulation is not significant under the Department's Regulatory Policies and Procedures. UMTA has prepared a preliminary regulatory evaluation in support of this rulemaking. This preliminary regulatory evaluation is on file as part of the docket to this rulemaking. A final regulatory evaluation will be prepared before this proposed rule becomes final.

C. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, UMTA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

D. Paperwork Reduction Act

The collection of information requirements in this rule are subject to the Paperwork Reduction Act, Pub. L. 96–511, 44 U.S.C. Chapter 35. Section 319 of the Surface Transportation and Uniform Relocation Assistance Act specifically requires a grantee to perform pre-award and post-delivery audits. These required audits are reflected in this rule and are being submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for approval.

E. Federalism—Executive Order 12612

UMTA has reviewed this proposed rule in light of the Federalism considerations set forth in Executive Order 12612. Although this rule would have definite Federalism implications because it would impose additional requirements on States, local governments, and public transit operators receiving Federal financial assistance from UMTA, this rulemaking is required by statute. UMTA considered the Federalism implications of this rulemaking in formulating this proposal, and has designed it to provide recipients with as much flexibility as possible under the law. UMTA does not expect that this proposed rule will have a substantial direct effect on the relationship between the Federal Government and the States or the distribution of power and responsibilities among the various levels of government. In addition, UMTA has considered the Federalism implications of this rulemaking on public transit operators which are quasi-governmental or instrumentalities of States and local governments, and UMTA does not expect that this proposed rule will have a substantial direct effect on the relationship between those public operators and the governmental entities with which they are associated. Accordingly, UMTA has determined that the preparation of a Federalism Assessment under Executive Order 12612 is not warranted.

List of Subjects in 49 CFR Part 663

Government contracts, Grant programs—transportation, Mass transportation.

III. New 49 CFR Part 663

Accordingly, for the reasons described in the preamble, 49 CFR Chapter VI would be amended by adding new Part 663 to read as follows:

PART 663—PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

Subpart A—General

Sec.

663.1 Purpose.
663.3 Scope.
663.5 Definitions.
663.7 Audit requirement.
663.9 Audit limitations.
663.11 Audit financing.
663.13 Buy America Requirements.

Subpart B—Pre-award Audits

663.21 Pre-award audit requirement.
663.23 Description of pre-award audit.
663.25 Safety Certification.
663.27 Pre-award Buy America Certification.
663.29 Pre-award Purchaser's Requirements Certification.

Subpart C—Post-delivery Audits

663.31 Post-delivery audit requirement.
663.33 Description of post-delivery audit.
663.35 Post-delivery Buy America Certification.
663.37 Post-delivery Purchaser's Requirements Certification.
663.35 Post-delivery audit review.

Authority: Sec. 319, Pub. L. 100–17 (49 U.S.C. 1608(j)); 23 U.S.C. 103(e)(4); Sec. 14 of the National Capital Transportation Act of 1969, as amended; 49 CFR 1.51.

Subpart A—General

§ 663.1 Purpose.

This Part implements section 12(j) of the Urban Mass Transportation Act of 1964, as amended, which was added by section 319 of the Surface Transportation and Uniform Relocation Assistance Act (Pub. L. 100–17). Section 12(j) requires the Urban Mass Transportation Administration, by delegation from the Secretary of Transportation, to issue regulations requiring pre-award and post-delivery audits when a recipient of Federal financial assistance purchases rolling stock with funds made available under the Urban Mass Transportation Act of 1964, as amended.

§ 663.3 Scope.

This Part applies to a recipient purchasing rolling stock to carry passengers in revenue service with funds from the UMTA under the Urban Mass Transportation Act of 1964, as amended; 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

§ 663.5 Definitions.

As used in this Part—

(a) "Pre-award" means the time period in the procurement process after a supplier is selected but before the recipient enters into a formal contract with the supplier.

(b) "Post-delivery" means the time period in the procurement process from when the rolling stock is delivered to the recipient until title to the rolling stock is transferred to the recipient or the rolling stock is put into revenue service, whichever is first.

(c) "Recipient" means a person who receives Federal financial assistance from UMTA, including a person who receives Federal financial assistance from UMTA through a State or other public body.

(d) "Revenue service" means operation of rolling stock for the transportation of passengers as anticipated by the recipient.

(e) "Rolling stock" means buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, and vehicles used for guideways and incline planes.

(f) "UMTA" means the Urban Mass Transportation Administration.

§ 663.7 Audit requirement.

A recipient purchasing revenue service rolling stock with UMTA funds must conduct, or cause to be conducted, pre-award and post-delivery audits as prescribed in this Part.

§ 663.9 Audit limitations.

(a) An audit conducted under this Part is limited to verifying compliance with:

(1) Applicable Federal motor vehicle safety requirements;

(2) Applicable Buy America requirements (section 165 of the Surface Transportation Assistance Act of 1982, as amended,); and

(3) Bid specification requirements of the recipient.

(b) An audit conducted under this Part is separate from the single annual audit requirement established by Office of Management and Budget Circular A–128, "Audits of State and Local Governments," dated May 16, 1985.

§ 663.11 Audit financing.

A recipient purchasing revenue service rolling stock with UMTA funds may charge the cost of activities required by this Part to the grant which UMTA made for the purchase.

§ 663.13 Buy America requirements.

A Buy America certification under this Part is in addition to any certification which may be required by Part 661 of this title. Nothing in this Part precludes UMTA from conducting a Buy America investigation under Part 661 of this title.

Subpart B—Pre-award Audits

§ 663.21 Pre-award audit requirement.

A recipient purchasing revenue service rolling stock with UMTA funds must ensure that a pre-award audit under this Part is complete before the recipient enters into a formal contract for the purchase.

§ 663.23 Description of pre-award audit.

A pre-award audit under this Part is a report which contains—

(a) A safety certification as described in § 663.25 of this Part;

(b) A Buy America certification as described in § 663.27 of this Part; and

(c) A purchaser's requirements certification as described in § 663.29 of this Part.

§ 663.25 Safety certification.

(a) For purposes of this Part, a safety certification is a certification from a person, except an employee or agent of the manufacturer, that—

(1) There is documentation from a source other than the manufacturer that the rolling stock to be purchased has been tested and found to comply with all applicable Federal motor vehicle safety standards as issued by the National Highway Traffic Safety Administration in Part 571 of this title; or

(2) The rolling stock to be purchased is not subject to the Federal motor vehicle standards issued by the National Highway Traffic Safety Administration in Part 571 of this title.

(b) For purposes of a safety certification under this Part, an independent laboratory or the National Highway Traffic Safety Administration may reissue a report as to whether a vehicle the laboratory has tested meets the Federal motor vehicle safety standards, if it certifies that to the best of its knowledge neither the standards nor the vehicle have been changed since the vehicle was tested.

§ 663.27 Pre-award Buy America Certification.

For purposes of this Part, a pre-award Buy America certification is a certification from any person, except an employee or agent of the manufacturer, that—

(a) There is a letter from UMTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The person is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed documentation provided by the manufacturer which lists—

(1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and cost; and

(2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

§ 663.29 Pre-award purchaser's requirements certification.

For purposes of this Part, a pre-award purchaser's requirements certification is a certification from a person, except an employee or agent of the manufacturer, that the rolling stock the recipient is agreeing to purchase is the same item set out in the purchaser's bid specification or request for proposal.

Subpart C—Post-delivery Audits

§ 663.31 Post-delivery audit requirement.

A recipient purchasing revenue service rolling stock with UMTA funds must ensure that a post-delivery audit under this Part is complete before title to the rolling stock is transferred to the recipient or before the rolling stock is introduced into revenue service.

§ 663.33 Description of post-delivery audit.

A post-delivery audit under this Part is a report which contains—

(a) A post-delivery Buy America certification as described in § 663.35 of this Part; and

(b) A post-delivery Purchaser's requirements certification as described in § 663.37 of this Part.

§ 663.35 Post-delivery Buy America certification.

For purposes of this Part, a post-delivery Buy America certification is a certification from any person, except an employee or agent of the manufacturer, that—

(a) There is a letter from UMTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The person is satisfied that the rolling stock received meets the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed documentation provided by the manufacturer which lists—

(1) Component and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and cost; and

(2) The actual location of the final assembly point for the rolling stock, including a description of the activities which took place at the final assembly point and the cost of final assembly.

§ 663.37 Post-delivery purchaser's requirements certification.

For purposes of this Part, a post-delivery purchaser's requirements certification is a certification from a person, except an employee or agent of the manufacturer, that the rolling stock received has been visually inspected and operationally tested and determined to meet the terms of the contract.

§ 663.39 Post-delivery audit review.

(a) If a recipient cannot complete a post-delivery audit because it cannot certify that the rolling stock is exempt from or complies with the Buy America requirements, the recipient may not finally accept the vehicle.

(b) If a recipient cannot complete a post-delivery audit because it cannot certify that the rolling stock meets the terms of the contract, the recipient is not required to finally accept the rolling stock and may exercise any legal rights under the contract.

Issued on October 13, 1988.

Alfred A. DelliBovi,

Administrator.

[FR Doc. 88–24000 Filed 10–17–88; 8:45 am]

BILLING CODE 4910-57-M

federal register

Tuesday
October 18, 1988

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

October 1, 1988.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1988 of 10 deferrals contained in the first special message of FY 1989. There have been no rescissions proposed. This message was transmitted to the Congress of September 30, 1988.

Rescissions (Table A and Attachment A)

As of October 1, 1988, there was no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of October 1, 1988, $2,018.2 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below: [1]

James C. Miller III,

Director.

BILLING CODE 3110-01-M

[1] Not available at the time of signature.

TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	2,024.2
Routine Executive releases through October 1, 1988 (OMB/Agency releases of $6.0 million and cumulative adjustments of $0)	-6.0
Overturned by the Congress	0
Currently before the Congress	2,018.2

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of October 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1989

As of October 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D89-1	592,760		09-30-88					592,760
Special Assistance for Central America									
Promotion of stability and security in Central America	D89-2	1,000		09-30-88					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D89-3	144,649		09-30-88					144,649
Cooperative work	D89-4	335,263		09-30-88					335,263
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D89-5	1,212		09-30-88					1,212
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance	D89-6	2,800		09-30-88					2,800
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction)	D89-7	6,745		09-30-88					6,745
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D89-8	90,000		09-30-88					90,000

Attachment B - Status of Deferrals - Fiscal Year 1989

As of October 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-88
DEPARTMENT OF STATE									
Bureau for Refugee Programs United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88	6,001				20,134
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					823,608
TOTAL, DEFERRALS.....		2,024,171	0		6,001	0		0	2,018,171

[FR Doc. 88-24081 Filed 10-17-88; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
October 18, 1988

Part VII

The President

Proclamation 5882—National Forest Products Week, 1988

Page intentionally left blank

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

Presidential Documents

Title 3—

The President

Proclamation 5882 of October 14, 1988

National Forest Products Week, 1988

By the President of the United States of America

A Proclamation

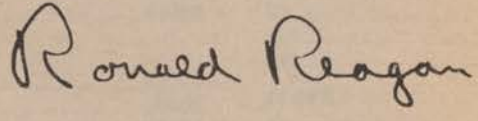
Our observance of National Forest Products Week reminds us that, in one way or another, forest resources affect all of us, city and country dwellers alike. Forests supply many material needs, from lumber for homes to paper products to the baseball bats of our national pastime. And, whether in national and city parks or in local woods, forests enhance our physical and spiritual well-being with their scenic vistas and recreational opportunities.

Forestry and agriculture have been vital to our economic life from the start. Today, we are seeking to expand our market for forest products. We have the technological and resource capabilities to boost our competitiveness in exporting forest products. Our active competition in the international marketplace will foster a more robust economy and healthier and more productive forests. We continue to develop new resource management practices and to foster innovations in forest products. We can provide these and other products for ourselves and the people of the world; we will succeed as long as we continue to understand the great importance of our forests and the need to nurture them.

To promote greater awareness and appreciation of the many benefits of forests for our Nation, the Congress, by Public Law 86–753 (36 U.S.C. 163), has designated the week beginning on the third Sunday in October of each year as "National Forest Products Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 16 through October 22, 1988, as National Forest Products Week, and I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of October, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 88–24216
Filed 10–17–88; 11:01 am]
Billing code 3195–01–M

Reader Aids

Federal Register
Vol. 53, No. 201
Tuesday, October 18, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

38687-38938.....3
38939-39072.....4
39073-39224.....5
39225-39432.....6
39433-39582.....7
39583-39738.....11
39739-40012.....12
40013-40200.....13
40201-40394.....14
40395-40714.....17
40715-40864.....18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305.....39585

3 CFR

Proclamations:
5867.....38687
5868.....38689
5869.....38691
5870.....38693
5871.....38695
5872.....38697
5873.....38699
5874.....38705
5875.....39071
5876.....39073
5877.....39075
5878.....39077
5879.....39888
5880.....40201
5881.....40395
5882.....40863

Executive Orders:
11183 (Amended by EO 12653).....38703
12653.....38703
12654.....38890

Administrative Orders:
Memorandums:
Sept. 29, 1988.....38701
Orders:
Oct. 15, 1988.....40696
Presidential Determinations:
No. 88-24 of Sept. 13, 1988.....39583
No. 88-25 of Sept. 29, 1988.....40013

5 CFR

870 (2 documents).....40715
890.....40203, 40715
1201.....40015

Proposed Rules:
300.....40546
430.....38954
432.....38954
870.....40232

7 CFR

16.....40716
271.....39433
272.....39433
273.....39433
275.....39433
277.....39433
401.....38707, 40717
729.....40203
906.....40397
910.....38707, 39444, 40205
987.....39225
1126.....39444
1137.....39446
1475.....40206
1478.....40015
1610.....39014
1710.....40718
1736.....39226
1951.....39014, 39739
1980.....40399

Proposed Rules:
29.....40069
966.....39305
984.....39306
1001.....38963
1002.....38727, 38963
1004.....38963
1007.....38730
1036.....40733
1098.....38730
1099.....39839
1124.....39581
1125.....39581
1751.....40734
1772.....38965
1930.....40430
1944.....40430

9 CFR

71.....40378
78.....40378, 40403
85.....40378
91.....40406
94.....39447
309.....40378
310.....40378
320.....40378

Proposed Rules:
318.....39307
319.....39307
381.....39307

10 CFR

2.....40019
600.....38939
1035.....38939

Proposed Rules:
15.....39480
35.....39745
50.....40432
140.....40233
430.....39403

11 CFR

Proposed Rules:
106.....40070
109.....40070
114.....40070

12 CFR

32.....40720
611.....39079
614.....32609
615.....39229, 40033
618.....39229

620.....39609
621.....39609
624.....40049
Proposed Rules:
330.....39746
509.....40432
512.....40432
522.....40449
541.....40449
542.....40449
543.....40449
544.....40449
545.....40449
547.....40449
548.....40449
549.....40449
569a.....40449
569b.....40449
569c.....40449
615.....39099

13 CFR

105.....38941
Proposed Rules:
108.....38737

14 CFR

13.....39404
21.....39448
23.....39448
39.....39250, 39449, 39450, 39839, 40051
61.....40318
71.....39252–39254, 39451, 40052–40054, 40318, 40408, 40409
73.....39254, 40410
91.....40318
97.....39452
99.....39842
121.....40316
135.....40316
139.....40842
Proposed Rules:
Ch. I.....39611, 40449, 40738
39.....40071, 40072, 40450
71.....39312–39314, 40073
73.....40452
75.....40452, 40825
99.....39846
119.....39852
121.....39852
125.....39852
127.....39852
135.....39852
157.....39062

15 CFR

379.....38835
399.....38835
785.....40410
799.....40410
801.....39452
Proposed Rules:
303.....39486, 39612
768.....40074
770.....40074
771.....40074
772.....40074
773.....40074
774.....40074
775.....40074
776.....40074
777.....40074
778.....40074
779.....40074
785.....40074
786.....40074
790.....40074
799.....40074

16 CFR

13.....38941
304.....38942
305.....39741
Proposed Rules:
419.....39103

17 CFR

240.....38967, 40721
Proposed Rules:
15.....39103

18 CFR

4.....40722
292.....40722
1300.....40217
1301.....40217
1307.....39081
Proposed Rules
154.....40235
157.....40235
260.....40235
284.....40235
385.....40235
388.....40235

19 CFR

19.....40218
112.....40218
146.....40218
Proposed Rules:
211.....40453

20 CFR

205.....39255
404.....38943, 39014
416.....39014
614.....40550
Proposed Rules:
Ch. V.....39403
235.....39315
404.....39487
416.....39487

21 CFR

5.....40055
173.....39455
177.....39083
436.....39839
444.....40725
446.....39839
510.....39256, 39839, 40055–40057, 40726–40729
520.....40055, 40058, 40726
522.....39839, 40056, 40057, 40726–40728
524.....39084, 39256, 39839 40726
540.....40058, 40729
546.....40726
555.....40726
556.....40059
558.....38708, 39257, 40059 40729
573.....40060
886.....38946, 40825
1308.....40061
Proposed Rules:
1308.....40390

22 CFR

7.....39588
20.....39456
204.....39015
1507.....40411

24 CFR

200.....40220
203.....40220
204.....40220
213.....40220
220.....40220
221.....40220
222.....40220
232.....40220
234.....40220
235.....40220
240.....40220
251.....40220
252.....40220
255.....40220
511.....40220
570.....40220
813.....40220
882.....40220
887.....40220
888.....40220
904.....40220
905.....40220
913.....40220
960.....40220
964.....40220
966.....40220
970.....40220
Proposed Rules:
200.....40624
201.....39613, 40624
203.....38844, 40624
205.....40624
207.....40624
213.....38844, 40624
215.....40624
220.....38844
221.....38844, 40624
222.....38844
226.....38844
232.....40624
233.....38844
234.....38844, 40624
235.....38844, 40624
236.....40624
241.....40624
242.....40624
244.....40624
247.....40624
250.....40624
251.....40624
255.....40624
290.....40624
390.....40458
501.....40624
510.....40624
570.....40624
590.....40624
750.....40624
813.....40624
880.....40624
881.....40624
882.....40624
883.....40624
884.....40624
885.....40624
886.....40624
900.....40624
904.....40624
905.....40256, 40624
906.....40246
913.....40624
960.....40624

26 CFR

1.....38708, 39015, 39589
602.....38708, 39015, 39589

28 CFR

541.....40686
550.....40687

29 CFR

2610.....39258, 40222
2619.....40222
2622.....39258
2676.....40224
Proposed Rules:
1910.....38738, 39581
1915.....38738, 39581
1917.....38738, 39581
1918.....38738, 39581
1926.....38738, 39581
2560.....40674
2570.....40677
2610.....39200, 39613, 39718

30 CFR

206.....39459
773.....38868
785.....40828
823.....40828
916.....39085, 39467
917.....39259, 39470
934.....39261
Proposed Rules:
256.....38739
281.....38739
282.....38739
906.....39105
938.....39316, 39489

31 CFR

103.....40062
321.....39581
330.....39404

32 CFR

199.....38947
276.....39262
277.....39262
1285.....38716

33 CFR

100.....38716, 39273, 39274
117.....38717
165.....38718, 39604, 40414

34 CFR

219.....39018
222.....39018
500.....39218
501.....39218
524.....39218
525.....39218
526.....39218
548.....39218
561.....39218
562.....39218
573.....39218
574.....39218
581.....39218
Proposed Rules:
263.....39876
668.....39317

682.....39317
785.....39406
786.....39406
787.....39406

36 CFR

1150.....39473
211.....40729

Proposed Rules:

251.....40739
1270.....39747

37 CFR

Proposed Rules:

1.....39420
10.....38740, 38948
100.....39734
501.....39734

38 CFR

Proposed Rules:

3.....40544
8.....39750
36.....40742
21.....39490

39 CFR

232.....39087

Proposed Rules:

111.....40097

40 CFR

51.....40656
52...38719, 38722, 39087, 39742, 40415, 40656
60.....38892, 39412
81.....38724
122.....40562
147.....39088
180.....39090
264.....39720
272.....38950
372.....39472
403.....40562
799.....38952

Proposed Rules:

52.....40460, 40745, 40746
61.....39058
145.....38741
180.....39106-39109, 40824
185.....40824
186.....40824
256.....40243
261.....40316
311.....40692
763.....38868
799.....40244

41 CFR

105-54.....40224
201-1.....40066
201-30.....40066
201-32.....40066

42 CFR

405.....38835
412.....38835
413.....38835
424.....40231
489.....38835

43 CFR

3450.....39015
3590.....39459

Public Land Orders:

6687.....39274

Proposed Rules:

2810.....39403
5450.....39491
9230.....39403

44 CFR

62.....39091
64.....40426
65 (2 documents).....40730
67.....40731

Proposed Rules:

67.....38741, 40098

45 CFR

Proposed Rules:

302.....39110
303.....39110
304.....39110
305.....39110

46 CFR

Proposed Rules:

580.....38742, 38969
586.....39317

47 CFR

0.....39092
36.....39095
73.....39095, 39605
94.....38725
300.....39095

Proposed Rules:

73.....38743, 38747, 39614-39617
90.....39114

48 CFR

519.....39096

Proposed Rules:

222.....38749
247.....38753
252.....38753

49 CFR

383.....39044
390.....39044
391.....39044
392.....39044
531.....39275
1185.....39096, 40068
1207.....40428
1249.....40428

Proposed Rules:

177.....39114
531.....39115
571.....39751, 40462, 40463
663.....40850
1207.....39119
1249.....39119

50 CFR

216.....39743
601.....39303
611.....39475
625.....39475
640.....39581
642.....39097, 40231
663.....39606
675.....38725, 39097, 39479, 39718, 39744

Proposed Rules:

17...38969, 39617-39626, 40479
23.....38755
216.....40246
651.....39627

LIST OF PUBLIC LAWS

Last List October 17, 1988

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 364/Pub. L. 100-484

To designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week." (Oct. 13, 1988; 102 Stat. 2342; 1 page) Price: $1.00

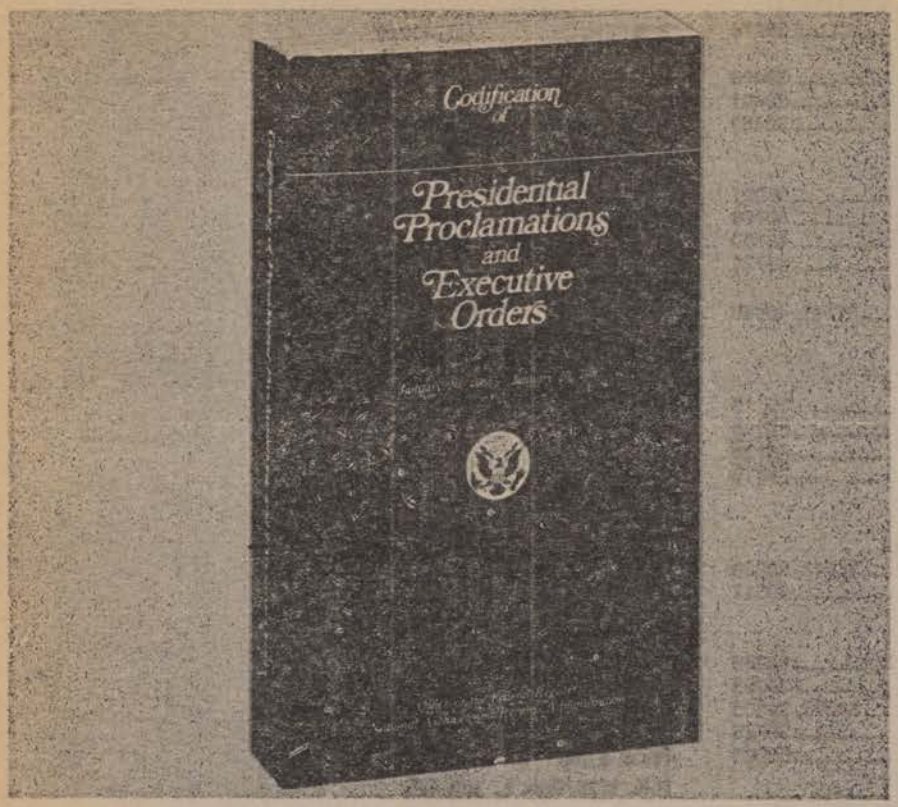
H.R. 1720/Pub. L. 100-485

Family Support Act of 1988 (Oct. 13, 1988; 102 Stat. 2343; 86 pages) Price: $2.50

S. 1165/Pub. L. 100-486

To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey. (Oct. 13, 1988; 102 Stat. 2429; 2 pages) Price: $1.00

New edition now available....



For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20,1985, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961-1985 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

MAIL ORDER FORM To:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ *check,* ☐ *money order, or charge to my*

Deposit Account No. ☐☐☐☐☐☐–☐ *Order No.* _____

master charge THE INTERBANK CARD

VISA

Credit Card Orders Only

Total charges $ _____. Fill in the boxes below:

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Master Charge Interbank No. ☐☐☐☐

Charge orders may be telephoned to the GPO order desk at (202)783-3238 from 8:00a.m. to 4:00p.m. eastern time, Monday-Friday (except holidays).

★6105

Please send me _____ *copies of the* ***Codification of Presidential Proclamations and Executive Orders*** *at $20.00 per copy. Stock No. 022-022-00110-0*

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE