AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

9-23-86
Vol. 51 No. 184
Pages 33733-33860

federal register

Tuesday
September 23, 1986

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 $300.00 per year, or $150.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

Contents

Federal Register
Vol. 51, No. 184
Tuesday, September 23, 1986

Agriculture Department
See Animal and Plant Health Inspection Service; Farmers Home Administration; Soil Conservation Service

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
October, 33805

Animal and Plant Health Inspection Service
RULES
Livestock and poultry disease control:
Bovine tuberculosis indemnity, 33733

Centers for Disease Control
NOTICES
Meetings:
Third US-Finnish Joint Symposium on Occupational Safety and Health, 33808

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Defense Department
See Navy Department

Education Department
NOTICES
Grants; availability, etc.:
Handicapped children's early education program, 33850
Funding priorities, 33850
Handicapped individuals; postsecondary education programs and demonstration projects, 33796

Employment and Training Administration
NOTICES
Adjustment assistance:
Inspiration Mines, Inc.; correction, 33818

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 33746
Air quality planning purposes; designation of areas:
Minnesota, 33750

Family Support Administration
NOTICES
Grants; availability, etc.:
Low income home energy assistance program; use of Exxon petroleum violation escrow funds, 33808

Farmers Home Administration
PROPOSED RULES
National Environmental Policy Act; implementation, 33763

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 33736
British Aerospace, 33737–33739
(3 documents)
Control zones and transition areas, 33740
Transition areas, 33739
PROPOSED RULES
Restricted areas, 33790
VOR Federal airways, 33789
NOTICES
Meetings:
Aeronautics Radio Technical Commission, 33829

Federal Communications Commission
RULES
Common carrier services:
Access charges—
Closed-end of WATS lines; peak/off-peak pricing, 33751

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Mega Hydro, Inc., et al., 33797
Meetings; Sunshine Act, 33831
Oil pipelines, interstate; tentative valuations, 33797
Preliminary permits surrender:
Robbins Lumber, Inc., et al., 33798
Small power production and cogeneration facilities; qualifying status:
Multitrade of Martinsville, Inc., et al., 33798
Applications, hearings, determinations, etc.:
Amoco Production Co. et al., 33798
Texas Eastern Transmission Corp., 33800
United Gas Pipe Line Co., 33801

Federal Highway Administration
RULES
Motor carrier safety regulations:
Financial responsibility minimum levels—
Environmental restoration, 33854

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
Loan recordkeeping requirements
Correction, 33736

Federal Labor Relations Authority
RULES
Privacy Act implementation, case processing, Equal Access to Justice Act implementation, 33836
PROPOSED RULES
Case processing:
Arbitration award exceptions, 33846
Computation of time for filing, etc., 33838
Negotiability issues; expedited review, 33845
Unfair labor practice proceedings, 33839
Unfair labor practice proceedings and case processing:
Administrative Law Judge delegations, etc., 33840

Federal Maritime Commission
NOTICES
Agreements filed, etc., 33802
Complaints filed:
M-C International et al., 33802

Federal Reserve System
NOTICES
Federal Reserve Bank services; fee schedules and pricing principles:
Automated clearing house float recovery, 33802
Applications, hearings, determinations, etc.:
Fidelcor, Inc., 33804
Kosciusko Financial, Inc., et al., 33804
River Forest Bancorp; correction, 33805
Toyo Trust & Banking Co., Inc., et al., 33805

Federal Service Impasses Panel
RULES
Privacy Act implementation, case processing, Equal Access to Justice Act implementation, 33836

Fish and Wildlife Service
RULES
Endangered and threatened species:
Grizzly bear, 33753
Hunting:
Refuge specific hunting regulations
Correction, 33760

Food and Drug Administration
NOTICES
Medical devices; premarket approval:
Charter Labs Non-Preserved Saline Solution, 33810

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Family Support Administration; Food and Drug Administration; National Institutes of Health

Indian Affairs Bureau
NOTICES
Reservation establishment, additions, etc.:
Pueblo of Santa Ana, NM; correction, 33812

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service

Internal Revenue Service
RULES
Excise taxes:
Removed from the premises; definition, 33741
NOTICES
Meetings:
Art Advisory Panel, 33829

International Broadcasting Board
NOTICES
Meetings; Sunshine Act, 33831

International Trade Administration
NOTICES
Antidumping:
Hot-rolled carbon steel plate in coil from Brazil, 33793
Hot-rolled carbon steel sheet from Brazil, 33794
Steel jacks from Canada, 33795

Interstate Commerce Commission
RULES
Tariffs and schedules:
Motor common carriers of property and freight forwarders; automatic expansion of zone rate freedom, 33752
NOTICES
Rail carriers:
Cost recovery procedures; adjustment factor, 33816

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 33817

Land Management Bureau
NOTICES
Meetings:
Roswell District Advisory Council, 33812
Motor vehicle use restrictions:
Garnet Resource Area, MT, 33813
Oil and gas leases:
Wyoming, 33814
Realty actions; sales, leases, etc.:
Nevada, 33814
Survey plat filings:
California, 33814, 33815
(5 documents)

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
A. & J. Coal Co., 33818
Atascosa Mining Co., 33818
Betty B. Coal Co., 33819
(2 documents)
Clinchfield Coal Co., 33819
Drummond Co., Inc., 33820
Navasota Mining Co., Inc., 33820
Quarto Mining Co., 33821
R. & L. Coals, Inc., 33821

National Aeronautics and Space Administration
NOTICES
Meetings:
Advisory Council, 33822
Aeronautics Advisory Committee, 33822
Space and Earth Science Advisory Committee, 33823
Space Systems and Technology Advisory Committee, 33823
(2 documents)

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

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 33810
National Eye Institute, 33811
Platelet transfusion therapy consensus development conference, 33811

National Labor Relations Board
NOTICES
Meetings; Sunshine Act, 33833

National Oceanic and Atmospheric Administration
RULES
Pacific salmon treaty; preemption, 33761
NOTICES
Permits:
Marine mammals, 33796
(2 documents)

National Park Service
NOTICES
Historic Places National Register; pending nominations:
Arizona et al., 33815

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Theodore Roosevelt, 33745

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 33833
Petitions; Director's decisions:
Babcock & Wilcox, 33824
Applications, hearings, determinations, etc.:
Millstone Nuclear Energy Co. et al., 33824
Philadelphia Electric Co. et al, 33824
Power Authority of State of New York, 33824

Occupational Safety and Health Administration
NOTICES
Meetings:
Occupational Safety and Health Federal Advisory Council, 33822

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 33825

Postal Service
PROPOSED RULES
International Mail Manual:
Express Mail Service—
Cayman Islands, 33792

Public Health Service
See Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Food and Drug Administration; National Institutes of Health

Small Business Administration
NOTICES
License surrenders:
Transworld Ventures, LTD., 33829
Applications, hearings, determinations, etc.:
East Coast Venture Capitol, Inc., 33827
Genesee Funding Corp., 33828
MH Capitol Investors, Inc., 33828

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Richardson Creek Watershed, NC, 33793

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 33833

Transportation Department
See Federal Aviation Administration; Federal Highway Administration

Treasury Department
See also Internal Revenue Service
NOTICES
Notes, Treasury:
AE-1988 series, 33858
Q-1990 series, 33859

Veterans Administration
NOTICES
Meetings:
Environmental Hazards Advisory Committee, 33829
Readjustment Problems of Vietnam Veterans Advisory Committee, 33829

Separate Parts In This Issue

Part II
Federal Labor Relations Authority, 33836

Part III
Department of Education, 33850

Part IV
Department of Transporation, Federal Highway Administration, 33854

Part V
Department of Treasury, 33858

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.

5 CFR
2400.....33836
2412.....33836
2430.....33836
Proposed Rules:
Ch. XIV.....33840
2422.....33838
2423 (3 documents).....33838–33840
2424.....33845
2425.....33846
2429 (3 documents).....33838, 33840,33846

7 CFR
Proposed Rules:
1940.....33763

9 CFR
50.....33733
77.....33733

12 CFR
563.....33736

14 CFR
39 (4 documents).....33736–33739
71 (2 documents).....33739, 33740
Proposed Rules:
71.....33789
73.....33790

26 CFR
51.....33741

32 CFR
706.....33745

39 CFR
Proposed Rules:
10.....33792

40 CFR
52.....33746
81.....33750

47 CFR
69.....33751

49 CFR
387.....33854
1312.....33752

50 CFR
17.....33753
32.....33760
372.....33761

Rules and Regulations

Federal Register
Vol. 51, No. 184
Tuesday, September 23, 1986

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 50 and 77

[Docket No. 85-131]

Bovine Tuberculosis Indemnity, Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the tuberculosis indemnity regulations in 9 CFR Part 50 to allow the payment of indemnity for certain exposed cattle under two years of age on the island of Molokai, Hawaii, that are to be moved to quarantined feedlots prior to destruction. This action is necessary in order to help eliminate foci of tuberculosis infection in cattle on the island of Molokai, Hawaii.

DATES: The effective date of this document is September 18, 1986. Written comments must be received on or before November 24, 1986.

ADDRESS: Written comments concerning this interim rule should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-131. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Program Planning Staff, VS, APHIS, USDA, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

This document amends the bovine tuberculosis indemnity regulations in 9 CFR Part 50 (referred to below as the regulations) in order to provide a mechanism for eliminating foci of tuberculosis infection in cattle on the island of Molokai in Hawaii.

Bovine tuberculosis is a contagious, infectious, and communicable disease of cattle, bison, and other species, including humans. Tuberculosis in affected animals is characterized by weight loss and general debilitation. Also, the disease can be fatal.

The regulations contain provisions, among other things, for the payment of indemnities to owners of cattle destroyed because of bovine tuberculosis. Under these regulations indemnity is paid to an owner of such animals destroyed because of tuberculosis to encourage the owner to cooperate in the timely removal of infected animals from the herd or, in the case of herd depopulation, to remove foci of infection, and thereby prevent transmission of tuberculosis to nearby susceptible herds.

Between 1983 and 1985, approximately 450 cattle on the island of Molokai were classified as affected with tuberculosis and subsequently destroyed. Based on testing and a review of the situation with respect to cattle on the island, all cattle on the island have been classified as exposed to tuberculosis.

It has been determined that it is necessary to expeditiously dispose of all the cattle on the island of Molokai in order to eliminate the foci of tuberculosis infection on the island and thereby prevent any further spread of the disease from the island.

Previously, as a condition of receiving indemnity under the regulations, cattle classified as exposed to tuberculosis were required, among other things, to be shipped direct to a Federal or State inspected slaughtering establishment for slaughter or be killed and then be disposed of by rendering, burial, or incineration in an approved manner under the supervision of a Veterinary Services or State employee. However, these options do not apear feasible for the depopulation of certain exposed cattle on the island of Molokai.

As noted above, all cattle on the island have been classified as exposed to tuberculosis. The slaughtering establishments in Hawaii do not have the capacity for handling such large numbers of cattle in a short period of time and it is not economically feasible to ship the cattle to places outside of Hawaii. Further, there are no adequate facilities in Hawaii for rendering or incinerating such a large number of cattle. Environmental, political, and social considerations preclude burial, both on the island and at sea, and burning. These factors, coupled with the need to accelerate the disposal process in order to depopulate herds before they increase considerably in number, make it necessary to provide alternative provisions for the disposal of cattle.

Many of the exposed cattle on the island of Molokai are calves under two years of age. The already pressed slaughtering establishments prefer to slaughter older cattle rather than immature cattle, which weigh less. Also, it appears that the slaughtering establishments do have the capacity for handling cattle two years of age and older.

Further, it appears that owners of cattle under two years of age will cooperate in the removal of these animals from the island if the cattle are allowed to go to quarantined feedlots prior to slaughter and if indemnity is paid for the animals.

Under these circumstances, the regulations are amended by adding a new § 50.16 to read as follows:

§ 50.16 Certain cattle on the Island of Molokai in Hawaii.

(a) The provisions of this part relating to indemnity for exposed cattle shall apply with respect to exposed cattle on the island of Molokai in Hawaii, *except that:* the Deputy Administrator may authorize the payment of Federal indemnity to owners of exposed cattle under two years of age, not to exceed $450 for any animal which has been found by Veterinary Services to have been exposed by reason of association with tuberculous cattle, (the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal) if the exposed cattle instead of being immediately destroyed are to be moved from the premises of origin on the island of Molokai (intrastate or interstate) to a quarantined feedlot and if the following conditions are met:

(1) The exposed cattle are sold for movement to the quarantined feedlot prior to their movement from the premises of origin;

(2) The exposed cattle, prior to movement from the premises of origin, are identified by tagging with an approved metal eartag

bearing a serial number attached to either ear of each animal and by branding the letter "S" (or other brand approved by the Deputy Administrator based on a determination that the brand would adequately identify the animal as destined for slaughter) on the left jaw not less than 2 nor more than 3 inches high, *Provided, however,* such branding may be done upon arrival at the quarantined feedlot if the cattle are accompanied to the feedlot by a Veterinary Services or State representative, or shipped in vehicles closed with official seals;

(3) The owner of the exposed cattle on the island of Molokai prior to sale for movement to the quarantined feedlot has entered into a compliance agreement with Veterinary Services, whereby it is agreed that the salvage for cattle moved to a quarantined feedlot shall be the amount received from the sale of the animals and that such owner shall be eligible for indemnity only if all cattle on the island of Molokai under his or her control are destroyed or moved under permit directly from the premises of origin to a quarantined feedlot under paragraph (a) of this section and if he or she otherwise agrees to comply with any other provisions of this part applicable to him or her; and

(4) The purchaser of the exposed cattle has entered into a compliance agreement [1] with Veterinary Services whereby it is agreed that the cattle will be moved under permit directly from the premises of origin to the quarantined feedlot; whereby it is agreed that at the time such cattle are moved from the quarantined feedlot the cattle will be shipped under permit directly to a Federal or State inspected slaughtering establishment for slaughter or be disposed of by rendering, burial, or incinerating in an approved manner under supervision of a Veterinary Service or States employee; whereby it is agreed that the exposed cattle shall not be sold prior to destruction unless the purchaser enters into a compliance agreement agreeing to the provisions contained in this paragraph.

(b) After indemnity has been paid for exposed cattle under paragraph (a) of this section, no additional indemnity shall be paid for such exposed cattle.

This interim rule (new § 50.16) allows owners of herds of cattle on the island of Molokai whose herds are destined for destruction because of bovine tuberculosis the option of selling immature cattle under two years of age for feeding purposes in accordance with the conditions specified above. Also, as further explained below, the provisions of the interim rule are adequate to protect against the spread of tuberculosis.

The maximum amount of $450 for an indemnity payment for an exposed animal is the maximum amount that is currently allowed under the regulations for an exposed animal. The current regulations also provide that the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal.

Under the regulations, indemnity payments consist of the difference between the appraised value and the salvage value of an animal. As stated above, as a condition of the Department paying indemnity, the exposed cattle will be required to be sold prior to movement from the premises of origin and the salvage value will be the amount received for the sale of the animals. This will provide a feasible method for the Department to determine the amount of indemnity that is to be paid.

Quarantined feedlot is defined in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" as

> A confined area under the direct supervision and control of a State livestock official who shall establish procedures for the accounting of all animals entering or leaving the area. The quarantined feedlot shall be maintained for finish feeding of animals in drylot with no provision for pasturing and grazing. All animals leaving such feedlot must only move directly to slaughter in accordance with established procedures for handling quarantined animals.

This interim rule adds this definition to § 50.1 of the regulations. Finish feeding the cattle at a feedlot eligible to be designated as a quarantined feedlot will be adequate to isolate the exposed cattle from other cattle. Further, under the provisions of the interim rule, cattle moved to a quarantined feedlot under the provisions of § 50.16(a) eventually will be destroyed under the same conditions as already provided in the regulations for exposed cattle.

The interim rule provides that cattle moved from a quarantined feedlot to a slaughtering establishment must be shipped under permit directly to the slaughtering establishment. This is consistent with the current provisions in § 50.7 which provide that animals to be shipped for slaughter must be shipped direct to slaughter under permit to a Federal of State inspected slaughtering establishment. The term "permit" (which is amended as explained below) is currently defined in § 50.1(p) of the regulations as a permit for movement of cattle direct to slaughter, listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification.

The interim rule also provides that cattle moved from the premises of origin to a quarantined feedlot must be moved under permit directly from the premises of origin to the quarantined feedlot. The term "permit" is amended to provide that a permit for movement from a premises of origin to a quarantined feedlot is the same as a permit for movement to a slaughtering establishment except that the permit would be for movement to a quarantined feedlot instead of to slaughter and the proof of slaughter certification is not applicable.

The regulations currently provide in § 50.6(b) that:

> [e]xposed cattle shall be identified by branding the letter "S" on the left jaw not less than 2 nor more than 3 inches high and by tagging with an approved metal eartag bearing a serial number attached to either ear of each animal; *Provided, however,* That in lieu of branding they may be accompanied to slaughter by a Veterinary Services or State representative; or be shipped in vehicles closed with official seals.

As noted above, as a condition of the Department paying indemnity under the interim rule, the exposed cattle are required to be eartagged on the island of Molokai before leaving the premises of origin. Eartagging is permanent individual identification used for identifying the animals for appraisal and for movement. The interim rule provides for the option of either branding the animals prior to leaving the premises of origin or, if the animals are accompanied to the feedlot by a Veterinary Services or State representative or shipped in vehicles closed with offical seals, branding upon arrival at the quarantined feedlot. The "S" brand on cattle is commonly recognized in the industry as a designation that the cattle are ultimately destined for slaughter. The interim rule also provides for the use of other brands, if specifically approved by the Deputy Administrator based on a determination that the brand would adequately identify the animals as destined for slaugher. Further, the provisions allowing the cattle to move from the premises of origin to the quarantined feedlot for branding are adequate to maintain the identity of the animals until branded.

The interim rule further provides that the special indemnity provisons are applicable for a given herd only if all of the cattle in the herd are destroyed or are move to quarantined feedlot for subsequent destruction, as provided in the rule. This is necessary to ensure the elimination of the foci of infection.

The compliance agreement provisions are included to ensure that owners of exposed cattle on the island of Molokai and purchasers of the exposed cattle are knowledgeable with respect to the

[1] Compliance Agreement forms are available without charge from the Program Planning Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Federal Building, Hyattsville, MD 20782, and from local offices of Veterinary Services. (Local offices are listed in telephone directories.)

requirements of the regulations and have agreed to comply with them.

Emergency Action

Dr. John K. Atwell, Deputy Administrator for Veterinary Services, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for a public comment period. It is necessary to make this interim rule effective immediately in order to help eliminate foci of tuberculosis infection in cattle on the island of Molokai, Hawaii, and thereby help prevent the spread of tuberculosis.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document and a document discussing comments received and any changes required will be published in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

This interim rule has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local govenment agencies, or geographic regions; or have 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.

It appears that most of the entities that will be affected by this action would be classified as small entities. It is anticipated that the owners of most cattle on Molokai will be undemnified up to the appraised value of their cattle. Further, it is anticipated that the interim rule will affect less than one percent of the cattle in the United States.

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

List of Subjects

9 CFR Part 50

Animal diseases, Cattle, Hogs, Indemnity payments, Tuberculosis.

9 CFR Part 77

Animal diseases, Cattle, Transportation, Tuberculosis.

Under the circumstances referred to above, 9 CFR Parts 50 and 77 are amended as follows:

PART 50—BOVINE TUBERCULOSIS INDEMNITY

1. The authority citation for Part 50 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. In paragraph (p) of § 50.1, the comma following "disease" is removed; the period at the end of the paragraph is changed to a semicolon; and the following is added: "*Provided, however,* a permit for movement to a quarantined feedlot pursuant to § 50.16 is the same except that the permit is for movement to a quarantined feedlot instead of to slaughter and the proof of slaughter certification is not applicable."

3. A new paragraph (r) is added to § 50.1 to read as follows:

§ 50.1 Definitions.

* * * * *

(r) "Quarantined feedlot": A confined area under the direct supervision and control of a State livestock official who shall establish procedures for the accounting of all animals entering or leaving the area. The quarantined feedlot shall be maintained for finish feeding of animals in drylot with no provision for pasturing and grazing. All animals leaving such feedlot must only move directly to slaughter in accordance with established procedures for handling quarantined animals.

4. A new § 50.16 is added to read as follows:

§ 50.16 Certain cattle on the Island of Molokai in Hawaii.

(a) The provisions of this part relating to indemnity for exposed cattle shall apply with respect to exposed cattle on the island of Molokai in Hawaii, *except that:* The Deputy Administrator may authorize the payment of Federal indemnity to owners of exposed cattle under two years of age, not to exceed $450 for any animal which has been found by Veterinary Services to have been exposed by reason of association with tuberculous cattle, (the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal), if the exposed cattle instead of being immediately destroyed are to be moved from the premises of origin on the island of Molokai (intrastate or interstate) to a quarantined feedlot and if the following conditions are met:

(1) The exposed cattle are sold for movement to the quarantined feedlot prior to their movement from the premises of origin;

(2) The exposed cattle, prior to movement from the premises of origin, are identified by tagging with an approval metal eartag bearing a serial number attached to either ear of each animal and by branding the letter "S" (or other brand approved by the Deputy Administrator based on a determination that the brand would adequately identify the animal as destined for slaughter) on the left jaw not less than 2 nor more than 3 inches high, *Provided, however,* such branding may be done upon arrival at the quarantined feedlot if the cattle are accompanied to the feedlot by a Veterinary Services or State representative, or shipped in vehicles closed with official seals;

(3) The owner of the exposed cattle on the island of Molokai prior to sale for movement to the quarantined feedlot has entered into a compliance agreement [1] with Veterinary Services, whereby it is agreed that the salvage for cattle moved to a quarantined feedlot shall be the amount received from the sale of the animals and that such owner shall be eligible for indemnity only if all cattle on the island of Molokai under his or her control are destroyed or moved under permit directly from the premises of origin to a quarantined feedlot under paragraph (a) of this section and if he or she otherwise agrees to comply with any other provisions of this part applicable to him or her; and;

(4) The purchaser of the exposed cattle has entered into a compliance agreement [1] with Veterinary Services whereby it is agreed that the cattle will be moved under permit directly from the premises of origin to the quarantined feedlot; whereby it is agreed that at the

[1] Compliance Agreement forms are available without charge from the Program Planning Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Federal Building, Hyattsville, MD 20782, and from local offices of Veterinary Services. (Local offices are listed in telephone directories.)

time such cattle are moved from the quarantined feedlot the cattle will be shipped under permit directly to a Federal or State inspected slaughtering establishment for slaughter or be disposed of by rendering, burial, or incinerating in an approved manner under supervision of a Veterinary Services or State employee; whereby it is agreed that the exposed cattle shall not be sold prior to destruction unless the purchaser enters into a compliance agreement agreeing to the provisions contained in this paragraph.

(b) After indemnity has been paid for exposed cattle under paragraph (a) of this section, no additional indemnity shall be paid for such exposed cattle.

PART 77—TUBERCULOSIS IN CATTLE

5. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 77.9 [Amended]

6. In paragraph (b) introductory text of § 77.9, *"Exposed cattle.* Cattle" is changed to "*Exposed cattle.* Except for movements of exposed cattle to quarantined feedlots in accordance with the provisions of § 50.16, cattle".

Done at Washington, DC, this 18th day of September 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–21478 Filed 9–22–86; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

Loan Recordkeeping Requirements

Correction

In FR Doc. 86–19594 beginning on page 30848 in the issue of Friday, August 29, 1986, make the following corrections:

§ 563.17–1 [Amended]

1. On page 30852, in the second column, in § 563.17–1(c)(1)(viii), in the second line, the first "or" should read "of".

2. On page 30853, in § 563.17–1(c)(5), in the second column, in the fourth line, "line" should read "lien"; in paragraph (c)(7), in the seventh line, "otherswise" should read "otherwise"; and in paragraph (c)(9), in the third line, "rquired" should read "required".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–184–AD; Amdt. 39–5426]

Airworthiness Directives; Boeing Model 707–300 Series Airplanes Modified by Shannon Supplemental Type Certificate (STC) SA2699NM.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of core cowl doors and related structure on certain Boeing Models 707–300 series airplanes, modified with "quiet" nacelles in accordance with Supplemental Type Certificate SA2699NM. This proposal is prompted by reports of in-flight loss of core cowl doors. The loss of these doors could result in damage to the airplane or injury to the public on the ground.

DATES: Effective October 13, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Tracor Aviation, Inc., 495 South Fairview Avenue, Goleta, California 93117, Attention: Customer Services. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Salas, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Loss Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION: There have been eleven incidents of loss of engine cowl doors, modified in accordance with STC SA2699NM, on Boeing 707–300 series airplanes. Four of these have occurred within the last two months. These incidents have resulted from various causes. The principal cause for the loss of these doors is attributed to excessive pressure buildup in the engine core compartment. This condition has occurred when deflection of the leading edge of the core cowl door has allowed engine fan exhaust air to enter the core compartment. This condition may also be caused by leakage or failure of pressure lines within the core compartment. Another cause has been failure to properly latch the cowl doors. Failure of the pylon support bracket for the door hangars is also considered to be a cause for the loss of doors

The loss of these doors could cause substantial damage to airplane structure, which could create a potentially hazardous condition if this damage occurred during critical flight conditions. The loss of these doors could also result in injury to the public or property on the ground.

The various causes associated with the loss of the doors have been addressed in several Tracor Aviation Service Bulletins:

—*Alert Service Bulletin AQ707–71–006,* Revision 1, dated February 18, 1986, provides for installation of core cowl door straps for door security as backup to the normal latching mechanism.

—*Service Bulletin Q707–71–010,* dated May 30, 1986, provides for improved door straps.

—*Service Bulletin Q707–71–009,* Revision 1, dated July 9, 1986, provides for a placard to warn ground crew of the importance of securing the straps.

—*Service Bulletin Q707–71–007,* dated March 7, 1986, provides for a doubler reinforcement of the door longeron at the forward latch U-bolt assembly. The door longeron has been susceptible to cracks at the U-bolt attachment, which has resulted in improper latching of the door.

—*Alert Service Bulletin AQ707–71–012,* Revision 1, dated September 5, 1986, provides for fasteners at the leading edge of both right and left core cowl doors. Under certain conditions, the leading edge of the core cowl doors can extend slightly into the engine fan exhaust airflow. That condition would allow the fan exhaust airflow to overpressurize the engine core compartment resulting in loss of the core cowl doors. The fasteners will prevent the door leading edge from extending into the fan exhaust airstream.

—*Alert Service Bulletin AQ707–71–013,* dated September 4, 1986, provides for reinforcement of the pylon support bracket for the forward door hinge of the right and left core cowl doors. The hinge support brackets have been susceptible to cracks. The hinge support bracket reinforcement will relieve stress in that area.

Since these conditions are likely to exist or develop on other airplanes of the same type design and modified by the quiet nacelle installation of STC SA2699NM, this airworthiness directive (AD) requires accomplishment of the procedures contained in the service bulletins previously mentioned

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

It is estimated that 40 airplanes (4 units per airplane) of U.S. registry will be affected by this AD, that it will take approximately 308 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD to U.S. operators is estimated to be $492,800.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 707-300 series airplanes modified in accordance with Supplemental Type Certificate (STC) SA2699NM, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent loss of engine core cowl door, within 150 hours time in service, or within 30 days, whichever occurs earlier after the effective date of this AD, accomplish the following:

A. Modify the core cowl doors and pylon support brackets in accordance with Tracor Aviation Alert Service Bulletins AQ707-71-006, Revison 1, dated February 18, 1986; AQ707-71-012, Revision 1, dated September 5, 1986; AQ707-71-013, dated September 4, 1986; and Tracor Aviation Service Bulletins Q707-71-007, dated March 7, 1986; Q707-71-009, Revision 1, dated July 9, 1986; Q707-71-010, dated May 30, 1986; or later FAA-approved revisions.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Tracor Aviation, Inc., 495 South Fairview Avenue, Goleta, California 93117, Attention: Customer Services. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective October 13, 1986.

Issued in Seattle, Washington, on September 16, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21450 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 85-NM-134-AD; Amdt. 39-5417]

Airworthiness Directives; British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an airworthiness directive (AD) that requires modification of the grounding connections of both AC and DC electrical circuits on certain BAe Model 125-800A series airplanes. This action is prompted by the manufacturer's analysis, which concluded that it is necessary to have dedicated ground terminals for both the AC and DC circuits to prevent power superposition and partial electrical system loss in the event of a grounding failure.

EFFECTIVE DATE: Effective October 20, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2188. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires modification of the grounding connections of both AC and DC electrical circuits on certain BAe 125-800 series airplanes, was published in the Federal Register on June 4, 1986 (51 FR 2036).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,000.

For the reasons discussed above, the FAA has determined that regulation is not considered to be major under Executive Order 12291 or significant pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($400). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to BAe Model 125-800A airplanes, serial numbers as listed in BAe Service Bulletin 24-251-(3014A), dated April 8, 1985, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To provide dedicated AC and DC ground terminals, accomplish the following:

1. Modify electrical wiring in accordance with BAe Service Bulletin 24-251-(3014A), dated April 8, 1985.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective October 20, 1986.

Issued is Seattle, Washington, on September 5, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21489 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-133-AD; Amdt. 39-5418]

Airworthiness Directives; British Aerospace Model BAe 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to British Aerospace (BAe) Model 125 DH/BH/HS airplanes fitted with Garrett TFE 731-3R-1H engines, which requires an inspection of the forward engine mountings and repair, if necessary. This amendment is prompted by reports of damage caused by interference between the forward engine mounts and the top center cowling. Failure to repair the forward engine mountings could result in failure of the engine mounts.

EFFECTIVE DATE: Effective October 20, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection of the forward engine mountings and repairs, if necessary, on all BAe Model 125 series DH/BH/HS airplanes equipped with Garrett TFE 731-3R-1H engines, was published in the **Federal Register** on June 17, 1986 (51 FR 21922).

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

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

It is estimated that 217 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $43,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($200). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to BAe Models DH/HS/BH 125 series airplanes equipped with Garrett TFE 731-3R-1H engines, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To prevent failure of the forward engine mounts, accomplish the following, unless previously accomplished:

A. Inspect the forward engine mounts and repair, if necessary, in accordance with BAe Service Bulletin 71-38, Revision 1, dated October 4, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective October 20, 1986.

Issued in Seattle, Washington, on September 5, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21488 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 85-NM-132-AD; Amdt. 39-5419]

Airworthiness Directives; British Aerospace Model BAe-146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires an inspection and repair, if necessary, or the main landing gear main fittings on certain BAe Model 146 series airplanes. This action is prompted by reports of surface defects which, if not repaired, could lead to failure of the fittings.

EFFECTIVE DATE: Effective October 20, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspections and repair, if necessary, of the main landing gear fitting on certain BAe Model 146 series airplanes to prevent structural failure, was published in the **Federal Register** on June 4, 1986 (51 FR 20307).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment which was received.

The commenter, the manufacturer, stated that an AD was not necessary since the fleet and all spares had already accomplished the procedures described in BAe Service Bulletin 32-18. The FAA does not agree. Since there is a possibility that the manufacturer's records may not be complete, the AD will ensure that the service bulletin procedures will be accomplished on all affected airplanes and, specifically, and presently foreign-registered planes which may be imported to the U.S. in the future.

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

It is estimated that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-146 series airplanes, with serial numbers as listed in BAe Service Bulletin 32-18, Revision 1, dated November 28, 1984, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To prevent structural failure of the main landing gear, accomplish the following, unless previously accomplished:

1. Inspect and repair, if necessary, the main landing gear main fittings in accordance with BAe Service Bulletin 32-18, Revision 1, dated November 28, 1984.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-133, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service bulletin from the manufacturers may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective October 20, 1986.

Issued in Seattle, Washington, on September 5, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21487 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 86-AWP-16]

Amendment to the Daggett, CA, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the description of the Daggett, California, transition area. This will extend the 700

foot transition area to the northeast of the Barstow-Daggett, California, Airport and provide controlled airspace for aircraft executing an instrument approach to the Barstow-Daggett Airport utilizing the Daggett, California, Very High Frequency Omni-directional Range Tactical Air Navigation (VORTAC).

EFFECTIVE DATE: 0901 UTC, December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

History

On Jule 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the description of the Daggett, California, transition area (51 FR 23430). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B, dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the description of the Daggett, California, transition area and extends the 700 foot transition area to the northeast of the Barstow-Daggett, California, Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

PART 71—[AMENDED]

Adoption of the Amendment

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

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

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

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Daggett, CA—[Amended]

Remove "within 2 miles each side of the 050° bearing from Barstow-Daggett Airport extending from the 3-mile radius area to 6 miles NE of the airport," and substitute "within 2.5 miles each side of the 058° bearing from Barstow-Daggett Airport extending from the 3-mile radius area to 9.5 miles NE of the airport."

Issued in Los Angeles, California, on September 4, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-21486 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 86-ANM-20]

Alteration of Medford, OR, Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the current geographical boundaries of the Medford, Oregon, Control Zone and 700 foot transition area. This action is necessary to ensure aircraft operating under Instrument Flight Rules would have exclusive use of that airspace when visibility is less than 3 miles, thereby, enhancing the safety of such operations.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 86-ANM-20, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

History

On June 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the control zone and transition area at Medford, Oregon (51 FR 23429).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Medford, Oregon, Control Zone and Transition Areas. This action is necessary to accommodate aircraft executing the VOR/DME Runway 14 approach to the Medford-Jackson County Airport. This action would also change the name of the PUMIC LOM to the PUMIE LOM.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas and Control zones.

PART 71—[AMENDED]

Adoption of the Amendment

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

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

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

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Medford, Oregon, Control Zone (Amended)

Within a 5-mile radius of the Medford-Jackson County Airport (lat. 42°22'15"N, long. 122°52'20"W), and within 2 miles west and 3 miles east of the Medford ILS Localizer north course, extending from the 5-mile radius zone to 3 miles north of the PUMIE LOM; and within 3.1 miles each side of the Medford VORTAC 352°(T) radial, extending from the Medford VORTAC to a point 7.3 miles north of the VORTAC.

And

§ 71.181 [Amended]

3. § 71.181 is amended as follows:

Medford, Oregon, Transition Area (Amended)

That airspace extending from 700 feet above the surface within 7 miles northeast and 5 miles southwest of the Medford ILS localizer northwest course extending from 3 miles northwest of the PUMIE LOM (lat. 42°27'03.8"N, long. 122°54'44.1"W), to 24 miles northwest of the LOM; within 3.4 each side of the Medford VORTAC 352°(T) radial, extending from the Medford VORTAC to a point 8.5 miles north of the VORTAC; within 3.5 miles each of the Medford ILS Localizer southeast course extending from the LOM to 24 miles southeast of the LOM; that airspace extending upward from 1,200 feet above the surface bounded on the east by V–452, on the southeast by the 40-mile arc centered on Klamath Falls VORTAC, on the south by V–122, on the west by V–23; that airspace southeast of Medford bounded on the north by the south edge of V–122, on the east by the 40-mile arc centered on Klamath Falls VORTAC, on the southeast by a line 5 miles southeast and parallel to the Fort Jones VORTAC 041° radial, on the west by the east edge of V–23; and that airspace west of the Medford VORTAC bounded on the north by the south edge of V–287; on the west by the east edge of V–27; on the south by the north edge of V–122.

Issued in Seattle, Washington, on September 4, 1986.

Joseph C. Foster,

(Acting), Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86–21485 Filed 9–22–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[T.D. 8103]

Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Definition of "Removed From the Premises"

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the final excise tax regulations concerning the definition of "removed from the premises" for purposes of the windfall profit tax. These amendments are being made to clarify when domestic crude oil is removed from the premises under the Crude Oil Windfall Profit Tax Act of 1980. These regulations provide the public with guidance needed for determining when the taxable event occurs for purposes of the imposition of the windfall profit tax under section 4986 of the Internal Revenue Code of 1954.

DATES: Paragraph (d)(3) of these final regulations is effective for domestic crude oil which under both rules set forth in T.D. 7844, *supra*, and the rules set forth in these final regulations is not treated as having been removed from the premises before October 23, 1986. Except as otherwise provided, paragraph (d) (2) and (4) of these final regulations is effective for domestic crude oil removed from the premises (within the meaning of paragraph (d) of § 51.4996–1, as amended) after February 29, 1980, under T.D. 7844.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202–566–3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1980, the **Federal Register** published temporary and proposed regulations (45 FR 23384, 23400) under section 4996 and others. The temporary regulations defined removed from the premises and were required to give guidance as to when the tax imposed by the Crude Oil Windfall Profit Tax Act of 1980 is triggered. These temporary and proposed regulations were further amended by Treasury Decision 7755 and an accompanying notice of proposed rulemaking, both published on January 19, 1981 (45 FR 4873, 4950). The proposed regulations were finalized by Treasury Decision 7844, published on November 5, 1982 (47 FR 50215).

On January 14, 1983, the **Federal Register** published proposed regulations (48 FR 1762) to amend § 51.4996–1(d) of the Excise Tax Regulations (26 CFR Part 51), as promulgated by T.D. 7844. A public hearing was held on June 14, 1983. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

In General

Section 4986 imposes an excise tax on the windfall profit from taxable crude oil when it is removed from the premises. Current § 51.4996–1(d)(1) states that, with certain exceptions, crude oil is removed from the premises when it is physically transported off the premises. Additionally, that section provides that crude oil is deemed removed when it is used, manufactured, or converted before it is removed. This document describes the exceptions to this general rule.

Injection or Use in Production

One exception provided for in current § 51.4996–1(d)(2) as well as in the proposed and final regulations is that crude oil that is injected into a well or used to power a production process or production equipment on the property (the proposed regulations used the term "premises") is not removed from the premises. To qualify for the exception such crude oil cannot leave the property (except for transportation to a storage facility in certain cases), nor can it be manufactured or converted. The final regulations add another qualification that requires that, in order for the exception to apply, the same person or persons who hold 100 percent of the operating interests in the portion of the property from which the injected oil is produced also must hold 100 percent of such interests in the portion of the property on which the oil is injected. Additionally, the final regulations provide that an election to treat separate and distinct reservoirs as separate properties is disregarded for purposes of this exception.

Transportation to Contiguous Tracts

The proposed and final regulations clarify another exception provided for in current § 51.4996–1(d)(3). This exception applies to crude oil that has not been manufactured, converted, sold or exchanged and that is to be used as powerhouse fuel, or injected into a well,

on another part of the same tract or parcel of land from which it was produced or on a tract that is contiguous to the producing tract (or is in a group of tracts contiguous to the producing tract). Such crude oil may be transported between premises located on the same tract or parcel of land or from the producing tract or parcel of land to contiguous tracts or parcels of land in which the same persons hold 100 percent of the operating mineral interests without triggering removal. (The proposed regulations did not refer to premises located on the same tract or parcel of land.) However, pursuant to the proposed and final regulations, if any consideration is transferred to any holder of a mineral interest in the producing tract or parcel (or portion thereof) who holds a lesser interest or no interest in the tract or parcel (or portion) on which the crude oil is used, as compensation for the holder's interest in the transported oil, removal from the premises occurs.

In the case of a holder of a lesser interest, consideration in the form of certain taxable crude oil is disregarded. In both instances the number of barrels of crude oil whose constructive sales price equals the fair market value of the total consideration transferred shall be deemed removed on the date the crude oil is transported.

For this purpose, contiguous is defined in the proposed and final regulations to require actual touching of the areas below the surface along a substantial common border that are subject to the right to produce crude oil. However, actual touching of the tracts or parcels of land on the surface is not required. For example, if a railroad right-of-way separates the tracts but the producer (or producers) who possess the right to produce in the areas on each side of the right-of-way also hold such interests in the area below the railroad right-of-way the tracts are contiguous.

Transportation to Storage Facilities; Point of Measurement

Current § 51.4996–1(d)(3)(ii) provides that crude oil shall not be considered removed from the premises when, prior to sale, it is transported a short distance to a storage facility. The final regulations clarify this storage tank exception by providing that crude oil in some instances may be transported to its first storage tank located 5 miles or less from the producing well (or in the case of an offshore well, 5 miles or less from the point the crude oil comes on shore) without triggering removal. (The proposed regulations stated that generally crude oil transported less than 2 miles from the premises to its first storage facility was deemed not removed from the premises.)

Several comments received on the proposed regulations, expressed concern that this exception might be interpreted so as to include transportation costs in the removal price of the crude oil. Therefore, this Treasury decision states that this exception is only for purposes of determining the timing of the imposition of the windfall profit tax and the date of the determination of the removal price. Additionally, these provisions clarify that the removal price of crude oil affected by the provisions is the removal price of the crude oil determined at the premises on which the crude oil was produced on the date that the crude oil is removed (or deemed removed) pursuant to § 51.4996–1(d).

Additionally several comments received on the proposed regulations suggested that the storage tank exception be amended to allow onshore-produced crude oil to be transported less than 10 miles to a storage tank without triggering removal. The commentators also recommended that the storage tank exception be only a safe-harbor rule and that the facts and circumstances of each case determine whether or not the crude oil is removed. These suggestions were rejected. Five miles or less from the producing well was determined to be a sufficient distance with regard to the transportation of onshore-produced crude oil to a storage tank. Additionally, the facts-and-circumstances test was rejected because it would be unduly difficult to administer in this case.

The storage tank exception provided for in the proposed and final regulations applies only if the crude oil has not been sold, exchanged, manufactured, or converted prior to the transportation. Removal will then generally be deemed to occur when crude oil is sold, exchanged, manufactured, converted, or withdrawn from its first storage facility.

The proposed regulations also provided that measurement of the crude oil in connection with its sale or exchange prior to its transportation to its first storage tank would trigger removal. Several commentators pointed out that this provision was unnecessary and confusing. They were concerned that this phrase might be interpreted to include the measurement of crude oil at the point of production solely for the purpose of allocating gross proceeds to producers. This language has been deleted from the final regulations.

Return to the Tract or Parcel of Land

The proposed and final regulations state that crude oil that is transported to the storage tank and later withdrawn from the storage facility but not deemed removed pursuant to § 51.4996–1(d)(3)(ii)(A), (*2*), or (*3*) shall not subsequently be deemed removed in certain circumstances. Such crude oil shall be deemed not removed if it is returned directly from the storage tank to the property on which it was produced. Additionally, such crude oil transported directly from the storage tank to a tract or group of tracts contiguous to the producing tract shall be deemed not removed provided all the requirements regarding transportation between contiguous tracts are met.

Injected Oil and Recovered Oil

Current § 51.4996–4 provides that, if oil that has been removed or deemed removed is injected into a well, the first crude oil recovered after injection (up to an amount equal to the amount injected) shall be deemed not removed. The final regulations expand upon this rule. They provide that if the injected oil has not been removed or deemed removed, the recovered oil shall be deemed to be the same category of crude oil as the injected oil. The categories of crude oil are tier 1 oil, tier 2 oil, newly discovered oil, tier 3 oil other than newly discovered oil, exempt oil. Additionally, in the case of a property on which a qualified tertiary project is in effect, the recovered crude oil first shall be allocated to that portion of the production from the property that exceeds the base level (described in section 4993 (b)(1)).

Effective Dates

The amendments to the final regulations contained in paragraph (d)(3) of § 51.4996–1 of this document shall apply to domestic crude oil which under both the rules set forth in T.D. 7844, *supra*, and under the rules set forth in these amendments, is not treated as having been removed from the premises before October 23, 1986. The amendments to the final regulations contained in paragraph (d) (2) and (4) of § 51.4996–1 of this document shall apply to domestic crude oil removed (or deemed removed) from the premises (within the meaning of paragraph (d) of § 51.4996–1, as amended) after Februrary 29, 1980, under T.D. 7844.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analyses is not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal

Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

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

List of Subjects in 26 CFR 51.4996–1

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Adoption of Amendments to the Regulations

PART 51—[AMENDED]

Accordingly, 26 CFR Part 51 is amended as follows:

Paragraph 1. The authority for Part 51 continues to read in part:

Authority: 26 U.S.C. 7805. Section 51.4966–1 (d) also issued under 26 U.S.C. 4997.

Par. 2. In § 51.4996–1 the headings and texts of paragraph (d)(2), (3), and (4) are revised to read as follows:

§ 51.4996–1 Definitions.

* * * * *

(d) *Removed from the premises; deemed removed.* * * *

(2) *Crude oil not treated as removed when used for certain purposes*—(1) *In general.* Crude oil that is injected into any well on the producing property or used on the property to power a production process (such as tertiary injection process or water flood) or production equipment (such as an artificial lift device) shall not be treated as removed from the premises under paragraph (d)(1) of this section, provided that the crude oil never left the property from which it was produced and was not manufactured or converted. In the case of crude oil so injected or used after September 23, 1986 the preceding sentence is applicable only if the person or persons who hold 100 percent of the operating mineral interests in the portion of the property from which the crude oil is produced also hold 100 percent of such interests in the portion of the property on which the crude oil is injected or used as powerhouse fuel. For example, if a property which exised on January 1, 1972, subsequently is subdivided and leased to different persons who each hold an operating mineral interest in only one of the subdivisions, crude oil produced from one subdivision of the property and injected into another subdivision is treated as removed pursuant to paragraph (d)(1) of this section. For purposes of this paragraph (d)(2), if consideration is transferred to a mineral interest owner who does not hold the same percentage interest in the portion of the property from which the crude oil is produced as in the portion of the pproperty on which the crude oil is injected or used as powerhouse fuel as compensation for the holder's interest in the crude oil injected or used as powerhouse fuel, the principles described in paragraph (d)(3)(i)(B)(*1*) shall apply for determining the number of barrels of crude oil that is deemed removed.

(ii) *Crude oil deemed not to have left property*—(A) *In general.* For purposes of this paragraph (d)(2), crude oil transported to a storage facility before being used on property is deemed not to have left the property from which it was produced only if it is transported to its first storage facility pursuant to paragraph (d)(3)(ii) of this section, subsequently withdrawn from such storage facility, and used on the producing property without ever having been deemed removed from the premises pursuant to paragraph (d)(3)(ii)(A) (*2*) or (*3*) of this section. For example, assume that wells 1 and 2 on property A have separate premises. Crude oil is produced from well 1 on premises 1 and transported from premises 1 to its storage facility that is located off the property and two miles from the producing well. Later the crude oil is injected into well 2 on premises 2 without having been deemed removed from premises 1 pursuant to paragraph (d)(3)(ii)(A) (*2*) or (*3*) of this section. The crude oil is deemed not have left the property and is not treated as removed when it is injected into well 2. However, if the crude oil is transported from premises 1 to a storage facility located more than five miles from the producing well prior to injection into either well 1 or well 2, it is removed when it is transported. For rules relating to the category of oil injected into a well and the category of crude oil recovered after injection, see paragraph (d)(4) of the section.

(B) *Separate reservoir election.* Solely for purposes of determining whether crude oil has left the property or otherwise been removed from the premises under this paragraph (d)(2), an election to treat separate and distinct reservoirs as separate properties shall be disregarded. For example, assume that a tract is underlain by two separate and distinct reservoirs which are treated as two separate properties. Crude oil produced from one reservoir is transported to its first storage facility located less than five miles from the producing well pursuant to paragraph (d)(3)(ii) of this section. Later the crude oil is injected into the second reservoir without having been deemed removed pursuant to paragraph (d)(3)(ii)(A) (*2*) or (*3*) of this section. The crude oil is deemed not to have left the property and is not treated as removed although it is used by the taxpayer (*i.e.*, reinjected into the producing reservoir).

(iii) *Removal price.* If, under this paragraph (d)(2), crude oil is not treated as removed but is later removed from the premises pursuant to this paragraph (d), its removal price shall be the constructive sales price, computed in accordance with the principles applicable for determining gross income from the property under section 613, on the date that the crude oil is removed or deemed removed from the premises. For purposes of the preceding sentence, the term constructive sales price means the constructive sales price at the premises on which the crude oil was produced, not at the physical location of the crude oil at the time it is removed (or deemed removed) pursuant to this paragraph (d).

(3) *Certain transported crude oil deemed not removed*—(i) *Transported to contiguous tracts*—(A) *In general.* This paragraph (d)(3)(i)(A) applies only for purposes of determining the timing of the imposition of the windfall profit tax and the date of the determination of the removal price (described in section 4988(c)). Except as provided in paragraph (d)(3)(i)(B) of this section, crude oil that is transported away from the premises from which it was produced to another portion of the same tract or parcel of land, or from the tract or parcel of land on which it was produced to a contiguous tract or parcel of land (or to a tract or parcel that is in a group of contiguous tracts or parcels that is contiguous to a producing tract or parcel) shall be deemed not removed from the premises if four conditions are met. These conditions are:

(*1*) The transported crude oil has not been manufactured, converted, sold, or exchanged;

(*2*) The crude oil is used to power a production process or production equipment, or is injected into a well, on a premises or tract or parcel of land described in the immediately preceding sentence;

(*3*) In the case of transportation between contiguous tracts or parcels of

land, the same person or persons hold 100 percent of the operating mineral interests in each of the tracts or parcels of land; and

(4) In the case of transportation away from the premises to another portion of the same tract or parcel of land, the person or persons who hold 100 percent of the operating mineral interests in the portion of the property from which the crude oil is produced also hold 100 percent of such interests in the portion of the property on which the crude oil is injected or used as powerhouse fuel.

(B) *Exceptions.* (1) Except as provided in paragraph (d)(3)(i)(B)(2) of this section, paragraph (d)(3)(i)(A) does not apply if any consideration is or will be transferred to a holder of a mineral interest in the tract or parcel of land (or portion thereof) that produced the crude oil—

(i) Who does not hold a mineral interest in the tract or parcel (or portion) on which the crude oil is used, or

(ii) Who also holds a mineral interest in the tract or parcel (or portion) on which the crude oil is used that entitles that holder to a smaller share of production than the holder's share of production in the producing tract or parcel (or portion).

as compensation for the holder's interest in the crude oil transported. If any consideration is transferred, the number of barrels of crude oil whose constructive sales price (determined under the principles employed under section 613) equals the fair market value (in the case of crude oil transferred as consideration, such constructive sales price of the crude oil transferred as consideration) of the total consideration transferred shall be deemed removed on the date the crude oil is transported from the producing tract or parcel of land.

(2) Paragraph (d)(3)(i)(B)(1) of this section does not apply to taxable crude oil that is transferred as consideration to a holder of a mineral interest described in paragraph (d)(3)(i)(B)(1)(ii) and that is to be produced from the premises or tracts or parcels of land in the same calendar quarter as that in which the crude oil is transported pursuant to paragraph (d)(3)(i)(A) or in the immediately following calendar quarter.

(C) *Definition of contiguous.* As used in this paragraph (d)(3)(i), the term "contiguous" means actually touching along a substantial common border. There must be such actual touching below the surface of the areas that are subject to the right to produce crude oil, but physical touching of the tracts or parcels of land on the surface is not required. Thus, a road separating two tracts of land will not affect the contiguity of the tracts as long as the right to produce under the road is held by the same person or persons who hold such rights in the tracts or parcels of land on each side of the road.

(D) *Transportation to storage tank exception.* If crude oil, which has been transported to its first storage facility pursuant to paragraph (d)(3)(ii) of this section and subsequently withdrawn from such storage facility, and which has not been deemed removed from the premises pursuant to paragraph (d)(3)(ii)(A) (2) or (3), is transported directly from such storage facility to a premises or tract or parcel of land referred to in the second sentence of paragraph (d)(3)(i)(A) of this section, such crude oil shall be deemed not removed from the premises provided that it would have been deemed not removed if it had been transported directly to such premises, tract, or parcel from the producing premises.

(E) *Examples.* The provisions of this paragraph (d)(3)(i) may be illustrated by the following examples:

Example (1). Crude oil is transported from tract 1 where it was produced to contiguous tract 2 to power production equipment. A and B hold operating mineral interests in tracts 1 and 2 as indicated in the following table:

	Tract 1 (percent)	Tract 2 (percent)
A	80	45
B	20	55
	100	100

Additionally, C holds a royalty interest in tract 1 but not in tract 2. B agrees to pay A money to reflect the 35 percent (80%–45%) difference in his operating mineral interests in tracts 1 and 2. A and B agree to pay C money for his royalty interest in the crude oil transported from tract 1. The number of barrels of crude oil whose constructive sales price equals the fair market value of the total consideration transferred to A and C is removed from the premises when it is transported from tract 1.

Example (2). D holds a 100% operating mineral interest in tract 3 and in tract 4. Tracts 3 and 4 are separated by a 100-foot wide area in which E railroad company holds a fee (including all mineral rights). Tracts 3 and 4 are not contiguous and, accordingly, crude oil is removed when it is transported from one of these tracts to the other.

(ii) *Transportation to a storage facility*—(A) *In general.* This paragraph (d)(3)(ii) applies only to crude oil transported away from the premises to its first storage facility. For purposes of determining the timing of the imposition of the windfall profit tax and the date of the determination of the removal price, such crude oil transported to such first storage facility located five miles or less from the producing well, or, in the case of an offshore well, five miles or less from the point the crude oil comes on shore, shall be deemed not removed from the premises provided that the transportation of the crude oil to such first storage facility is completed prior to manufacture, conversion, sale, or exchange. In those cases the crude oil shall be deemed removed on the first date that any of the following occurs:

(1) Withdrawal of the crude oil from such first storage facility; or

(2) Sale or exchange of the crude oil; or

(3) Manufacture or conversion of the crude oil.

(B) *Exceptions.* For exceptions to paragraph (d)(3)(ii)(1) of this section for crude oil returned to the property from which it was produced or to a tract or parcel of land or group of tracts or parcels of land contiguous to the one on which it was produced, see paragraphs (d)(2)(ii)(A) and (d)(3)(i)(D) of this section, respectively.

(iii) *Removal price.* If under paragraph (d)(3)(i) (A) or (D) or (ii)(A) crude oil is deemed not removed, but is later removed from the premises pursuant to this paragraph (d), its removal price shall be determined under the principles set forth in paragraph (d)(2)(iii) of this section.

(iv) *Effective date.* This paragraph (d)(3) shall apply to domestic crude oil which under both the rules set forth in T.D. 7844 (47 FR 50275) 1982)), and the rules set forth in this paragraph (d)(3) is not treated as having been removed from the premises before October 23, 1986. For rules applicable to domestic crude oil not subject to this paragraph (d)(3), see 26 CFR 51.4996–1(d) (Rev. as of April 1, 1983).

(4) *Categories of oil injected into a well and recovered after injection*—(i) *Injection of oil that has not been removed.* If oil that has not been removed or deemed removed is injected into a well, the first crude oil recovered after injection and as a result of injection (up to an amount equal to the amount injected) shall be deemed to be of the same category of crude oil as the injected oil. For purposes of this paragraph (d)(4)(i) the categories of crude oil are tier 1 oil, tier 2 oil, newly discovered oil, tier 3 oil other than newly discovered oil, and exempt oil. In the case of a property on which a qualified tertiary project is in effect during the month in which the crude oil is recovered, such recovered crude oil first shall be allocated to that portion of the production from the property for the month that exceeds the base level

(described in section 4993(b)(1)) for the property for that month. For example, assume that during the month, 500 barrels of tier 1 oil that have not been removed are injected into a property from which both tier 1 and tier 2 oil is produced. Additionally, a qualified tertiary project is in effect on the property. During the month 10,000 barrels of crude oil are produced from the property. Of that 10,000 barrels, 8,000 barrels is production which exceeds the base level amount for the property for the month. Pursuant to this paragraph (d)(4)(ii), 500 barrels of the 10,000 barrels produced are recovered tier 1 oil. The 500 barrels of recovered tier 1 oil are allocated to the 8,000 barrels which exceed the base level amount. Therefore, the remaining 7,500 barrels (8,000−500) of crude oil are allocated between tier 1 and tier 2 oil pursuant to section 4993(b)(3).

(ii) *Injection of oil that has been removed.* If oil that has been removed or deemed removed from the premises pursuant to this paragraph (d) is injected into a well (*e.g.*, "wash" or "frac" oil), the first crude oil recovered after injection and as a result of injection (up to an amount equal to the amount injected) shall be deemed not removed, provided the operator certifies the information required by paragraph (b)(7) of § 51.6050C–1. The preceding sentence shall not apply to oil (A) which is a "hydrocarbon injectant" within the meaning of section 193 (b) and (B) for which a deduction is allowable under section 193.

Roscoe L. Egger, Jr.,

Commissioner.

Approved: February 9, 1986.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86–21439 Filed 9–22–86; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea; USS THEODORE ROOSEVELT

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS THEODORE ROOSEVELT (CVN 71) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval aircraft carrier. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 9, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400; Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS THEODORE ROOSEVELT (CVN 71) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; Annex I, section 2(g), pertaining to the distance of the sidelights above the hull; Rule 30(a), pertaining to the installation of an all-around white light in the fore part of the ship and an all-around white light at or near the stern; and Annex I, section 2(k), pertaining to the distance of the anchor lights above the hull, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; sec. 2(k), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; sec. 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; sec. 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; sec. 3(b), Annex I
USS THEODORE ROOSEVELT	CVN 71	30.0	0.3	2	9.0	2	0.6		

2. Table Five of § 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS THEODORE ROOSEVELT	CVN 71				N/A		x		

Dated: September 9, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-21495 Filed 9-22-86; 8:45 am]

BILLING CODE 3810-AE-N

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-3084-4]

Approval and Promulgation of Implementation Plans; Arizona; Maricopa and Tucson Carbon Monoxide Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice announces EPA's final action under the Clean Air Act relating to the carbon monoxide (CO) State Implementation Plan (SIP) for the Maricopa County, Arizona Urban Planning Area (Phoenix) and the Tucson, Arizona CO Air Planning Area (Pima County). First, EPA is approving emission reduction measures contained in submittals from the State dated October 28, 1982 and February 3, 1984 because they strengthen the existing SIP. Second, EPA is disapproving the State's demonstrations that the measures that the State submitted for the two areas are adequate to meet the requirements of Part D (sections 171–178) of the Clean Air Act, including the requirement to demonstrate timely attainment of the National Ambient Air Quality Standard for CO. Finally, based on those disapprovals, EPA is imposing the construction ban set forth in section 110(a)(2)(I) of the Act and 40 CFR 52.24 on major new stationary sources and major modifications of stationary sources of CO in the two areas. EPA is not taking final action today on the State's requests for extension of the CO attainment date for the Maricopa County Urban Planning Area and for the Tucson Air Planning Area.

EFFECTIVE DATE: These actions are effective October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Wallace D. Woo, Chief, State Liaison Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California, 94105; Telephone: (415) 974–7634, (FTS) 454–7634.

SUPPLEMENTARY INFORMATION: On January 27, 1986 (51 FR 3343), EPA proposed several actions relating to the CO SIP for Maricops County, including a disapproval of the area's plan and the consequent imposition of a construction ban on major new stationary sources and major modifications of stationary sources of CO in the area. On the same date (51 FR 3346), EPA proposed similar actions with respect to the CO SIP for the Tucson CO Air Planning Area. The following sections describe the statutory and regulatory background of those proposals, comments EPA received on the proposals, EPA's response to the comments, and the final actions EPA is taking today.

Background

The Clean Air Act (CAA) amendments of 1977 required States to revise their SIPs by certain times for all areas that had not attained the National Ambient Air Quality Standards (NAAQS). The 1979 SIP revisions were to provide for attainment of the NAAQS by December 31, 1982. An extension of the attainment date for ozone or CO to no later than December 31, 1987 was available under section 172 if the State could demonstrate that attainment by the end of 1982 was not possible, despite the implementation of all reasonably available control measures. For areas for which EPA approved an extension of the attainment date beyond 1982, States were required to submit to EPA by July 1, 1982 an additional SIP revision that provided for attainment no later than December 31, 1987 and that complied with all other requirements of Part D of the CAA.

Maricopa County

Maricopa County was designated nonattainment for CO on March 3, 1978 (43 FR 8970). The State submitted various elements of Maricopa County's 1979 nonattainment plan for CO on January 4, January 18, February 23, July 3, and November 6, 1979, and on June 23, July 17, and October 30, 1980. On October 30, 1980, the State submitted a request to EPA to extend the attainment date for CO in Maricopa County to December 31, 1987. EPA proposed to approve the extension request on February 5, 1982 (47 FR 5439).

On May 5, 1982 (47 FR 19826), EPA conditionally approved the 1979 Maricopa CO plan. That plan purported to demonstate attainment of the CO standard by December 31, 1982 through the implementation of the following control measures: (1) An automotive inspection and maintenance (I/M) program, (2) traffic signal coordination improvements, (3) public transit improvements, (4) carpool and vanpool programs, and (5) the Federal Motor Vehicle Emission Control Program.

EPA approved the 1979 plan contingent upon the submittal of regulations meeting the New Source Review (NSR) requirements in Part D. In response to that condition, the State submitted NSR regulations for Maricopa County on June 3, 1982 and March 4, 1983. EPA proposed to approve those rules on July 3, 1983 (48 FR 34293), with one exception and certain understandings. EPA will take action on the NSR rules and the 1982 NSR condition in a future **Federal Register** notice.

Beyond establishing this NSR condition, EPA, in its final action on the 1979 CO plan, found that the plan by itself was not adequate to bring about attainment of the CO standard by the end of 1982. Thus, EPA gave only limited approval to the 1979 plan, and premised that approval on the expectation that (1) the Agency would take final action to grant the State's request for an attainment date extension to December 31, 1987 and (2) the State would submit another plan revision providing for attainment in Maricopa County by that date. The State submitted a plan

revision purporting to meet this requirement on October 28, 1982.

EPA's Proposal

EPA's evaluation of the 1982 Maricopa CO plan is explained in detail in the January 27, 1986 Maricopa CO SIP proposed rulemaking and the associated technical support document. In short, EPA has concluded that, while the individual measures that Arizona submitted would reduce CO emissions in Maricopa County, the State has not adequately demonstrated that those measures, together with the new measures relating to inspection and maintenance (I/M) that the State enacted in 1985, meet the requirements in section 172 for a plan that provides for timely attainment of the standard.

Shortly after EPA published its January 1986 proposal on the Maricopa CO plan, the Arizona Legislature enacted a new set of measures to tighten the State's I/M program. Preliminary information indicates that these new measures will further reduce CO emissions beyond the 1985 program changes. However, as stated in the proposal, before EPA can approve the plan as adequate to meet Part D requirements, the State must submit a revised demonstration using the latest available mobile source emission factors and modeling procedures. This demonstration must show that the set of measures that the State has adopted or will adopt will provide for timely attainment of the CO standard. Furthermore, the new analysis should address the control of identified CO "hotspots".

Public Comment

The State of Arizona submitted three comments on the Maricopa proposal. These comments and EPA's responses are set forth below.

Comment. The State contends that a disapproval of the Maricopa CO plan based on the failure to demonstate attainment by December 31, 1987 is not consistent with EPA's November 2, 1983 policy on compliance with Part D of the Clear Air Act (48 FR 50686). Specifically, Arizona claims that under that policy the SIP call process in section 110(a)(2)(H), rather than disapproval of the plan as a whole, should be the means to address the Maricopa CO plan's inadequacy to demonstrate attainment by the end of 1987. The State notes that EPA had previously approved the mobile source emission factors and modeling procedures relied on in the 1979 and 1982 revisions to the Maricopa County CO plan, the claims that a SIP call is the method prescribed by the Clean Air Act for addressing any rejection of these factors and procedures.

Response. EPA's 1983 policy does set forth the Agency's approach to SIP planning for areas that did not attain the National Ambient Air Quality Standards by the end of 1982. As Arizona suggests, the policy states under the heading "Areas with approved plans that did not attain by December 31, 1982" that "Where a fully approved Part D plan failed to bring about attainment by the end of 1982, EPA will treat the plan as 'substantially inadequate' to assure attainment under section 110(a)(2)(H) and call for a SIP revision." 48 FR 50693. Moreover, the rule that EPA promulgated when it announced the policy states that the construction moratorium "shall not apply to any nonattainment area once EPA has fully approved the State implementation plan for the area as meeting the requirements of Part D." 40 CFR 52.24(a); 48 FR 50697 (November 2, 1983).

That portion of the policy and that regulatory provision, however, by their terms do not apply to the 1979 Maricopa CO SIP. They apply to plans that received full EPA approval as meeting Part D, including the requirement to provide for attainment by the end of 1982.

The Maricopa CO plan did not receive such an approval. First, EPA only conditionally approved the Maricopa CO plan, stating that the plan lacked adequate requirements for the preconstruction review of new sources and major modifications. More importantly, in approving the Maricopa plan, EPA stated that "Although EPA is approving the [plan] for CO, it should be noted that the CO control strategy is not adequate to attain the standard by 1982. An extension request indicating attainment by 1987 has been submitted and proposed for approval in a separate **Federal Register** notice." 47 FR 19327 (May 5, 1982). Thus, EPA premised its conditional approval of the Maricopa CO SIP on the assumption that Arizona would submit a supplementary SIP containing a demonstration of attainment by the end of 1987.

As a result, although the 1979 Maricopa CO SIP was adequate to support both an interim determination that the state had met Part D and a lifting of the construction moratorium otherwise required by section 110(a)(2)(I) of the Act, continued avoidance of that moratorium depended on the state's submittal of an adequate supplementary plan. Since EPA has now determined that Maricopa's supplementary CO plan inadequately provides for attainment of the CO standard by the end of 1987, the appropriate action is plan disapproval and the imposition of the section 110(a)(2)(I) construction moratorium, as described in the section of the 1983 compliance policy entitled "1982 Plan Revisions". 48 FR 50695.

Moreover, disapproval of the Maricopa plan and imposition of the construction moratorium for CO would be consistent with the underlying theme of the 1983 EPA policy. It is apparent from a careful reading of the elements of that policy that EPA intended that States be given a reasonable chance to fulfill their planning obligations under Part D before EPA takes action imposing sanctions. EPA made it clear in its conditional approval of the Maricopa 1979 SIP that that plan was not adequate to bring about attainment of the CO standard by the end of 1982. Rather than keep the construction moratorium in effect, however, EPA provided the State an opportunity to submit a supplemental plan that would include such additional measures as were necessary to demonatrate timely attainment. Hence, the State has had the opportunity afforded by EPA's 1983 policy to avoid a construction moratorium by revising the 1979 Maricopa CO SIP. Through this rulemaking, EPA has determined that the State's plan still does not satisfy the requirement for an adequate attainment demonstration. Thus, under the spirit of the 1983 EPA policy, it is now appropriate to apply a construction ban, which section 110(a)(2)(I) of the Clean Air Act provides for plans, such as Maricopa's, that have never received full approval.

Finally, EPA agrees that it informally approved Arizona's use of certain mobile source emission factors in preparing the State's 1979 attainment demonstration. Dissatisfaction with those emission factors, however, is not the basis for EPA's disppproval of the Maricopa CO SIP. Rather, EPA bases the disapproval on the State's failure to show that it submitted control measures that will achieve the emission reduction assumed in the State's modeling demonstration. That demonstration shows that a certain specified set of measures, which the State ultimately did not submit to EPA, would bring about timely attainment.

Comment. Arizona contends that it is unreasonable for EPA to disapprove the Maricopa CO plan because the State did not adopt until mid-1985 some of the CO measures on which it intends to rely and therefore the State has not had an opportunity to perform an analysis demonstrating the adequacy of these measures to attain the CO standard by the end of 1987.

Response. Arizona submitted its supplementary CO plan for Maricopa in October of 1982. The plan purported to show that certain CO control measures, including an enhanced I/M program, would bring about attainment of the CO standard by the end of 1987. Nearly three years elapsed before the State actually adopted additional I/M measures. Moreover, the package that the State submitted to EPA in 1985 consisted of a mix of measures significantly different from what the 1982 demonstration had shown would provide for attainment. It is clear from the attainment deadlines in the Clean Air Act that EPA does not have an indefinite period to act on SIP submittals. The Agency has therefore decided, consistent with its actions on plans for other nonattainment areas, that it cannot wait for the State to complete an analysis of the effect of recently adopted measures before acting on the 1982 plan.

EPA appreciates the State's current efforts to demonstrate that recently adopted CO control measures will bring about timely attainment of the CO standard. Swift submittal of an acceptable demonstration and control measures will certainly speed the process of lifting the construction moratorium imposed by today's notice. Moreover, as stated in EPA's Federal Register notice of February 10, 1986 (51 FR 4934), EPA will consider Arizona's current modeling, planning, and control efforts in deciding whether the State is making reasonable efforts to submit an acceptable Part D plan. A finding of reasonable efforts would allow the State to avoid the imposition of a cutoff of funding for highway construction and Clean Air Act grants under section 176(a) of the Act.

Comment. Arizona states that EPA should make it clear whether it is granting the State's request for an extension of the attainment date for CO in Maricopa County. The State suggests that this could significantly affect the approvability of the area's 1982 CO plan, in that denial of the extension request would subject the plan to the portions of EPA's 1983 Part D policy applicable to nonattainment areas that do not receive attainment date extensions.

Response. As stated in the proposal notice, EPA evaluated the 1982 Maricopa CO plan on the assumption that EPA would grant the State's request for an attainment date extension for Maricopa to December 31, 1987. EPA's final action today is based on the same assumption. EPA is not, however, taking final action on the extension request for Maricopa at this time. The Agency is still considering the comments it received on its proposal to approve that extension and will act on the extension at a later date, in a separate **Federal Register** notice.

The Agency does not believe that it must take final action on the State's extension request for Maricopa before it may conclude that the area's 1982 plan does not include an adequate attainment demonstration and hence does not meet Part D requirements. As indicated in EPA's response to a previous comment, the Agency's disapproval of the plan is based on the State's failure to show that the CO control measures that the State has actually submitted to EPA will achieve the emissions reductions assumed in the demonstration of attainment. Arizona needed to submit an adequate CO SIP revision subsequent to the State's submittal of Maricopa's 1979 CO SIP irrespective of EPA's decision on the extension, because EPA premised its conditional approval of that SIP on the receipt of such a plan. Any such supplemental revision would have to demonstrate the effect on attainment of the adoption and submittal of CO control measures, whether the attainment date were the end of 1987, as in the case of areas receiving the section 172(a)(2) extension requested for Maricopa, or attainment as expeditiously as practicable, as in the case of areas denied such an extension but granted more time to attain under EPA's 1983 Part D policy.

Final Action

Based on the reasoning described in EPA's proposal (51 FR 3343) and the discussion in this notice, EPA today is (1) approving the legally adopted control measures included in the 1982 CO plan submittal as part of the Maricopa CO SIP because they contribute to attainment of the CO standard, and (2) finding that the Maricopa CO SIP as a whole, taking into account these new measures, does not adequately demonstrate timely attainment of the CO NAAQS and therefore does not meet all of the requirements of Part D of the Clean Air Act. In addition, consistent with section 110(a)(2)(I) of the Act and the policy contained in EPA's **Federal Register** notice of November 2, 1983 (48 FR 50686), EPA is today imposing a ban on the construction of new major stationary sources and major modifications of sources of CO in the Maricopa CO nonattainment area. (See 40 CFR 52.24.) This ban will become effective thirty days from today. EPA will lift the ban only upon final approval of a CO plan revision that meets the criteria previously described.

Pima County

A large portion of Pima County was designated as nonattainment for CO on March 3, 1978 (43 FR 8970), and the State submitted Pima County's initial nonattainment area plan for CO in 1978. On May 24, 1982, the State submitted a request to EPA to extend the attainment date for CO in Pima County to December 31, 1987. In that submittal, the state informed EPA that it believed the 1978 CO plan was inadequate by itself to bring about attainment by the end of 1982.

On July 7, 1982 (47 FR 29532), EPA took final action to approve the 1978 SIP revision on the condition that the state submit revised regulations for Pima County to meet EPA's NSR requirements. The state recently submitted revised NSR regulations for some portions of the county, and EPA has proposed action on those rules. 51 FR 17210 (May 9, 1986). For the subareas of the Tucson CO Air Planning area not subject to those rules, however, EPA disapproved the CO SIP and imposed the construction moratorium. 51 FR 3335 (January 27, 1986). Subsequent to that action and EPA's proposal of the same date to disapprove the Part D CO plan for the entire Tucson area, EPA approved the state's request to redesignate those subareas from nonattainment to attainment for CO. 51 FR 27843 (August 4, 1986). Since the redesignation removed those subareas from the coverage of Part D, today's rulemaking on the Pima County Part D CO SIP does not affect those subareas.

On February 3, 1984, the state submitted proposed revisions to the 1978 CO plan for Pima County, including an evaluation of control options for the county, adjustments to the baseline and projected data assumptions, and a new section relating to "hotspot" control. The state intended the revisions to fulfill the requirements for a supplementary plan revision applicable to CO nonattainment areas that have requested an attainment date extension. On March 1, 1985 (50 FR 8346), EPA proposed to approve and incorporate into the SIP the CO control measures in the 1984 plan update, including certain traffic flow improvement measures, as helpful to attainment of the CO standard. In that notice, however, EPA stated that it was deferring action on whether the attainment demonstration and new measures met the requirements of Part D, including the requirement for a plan update that provides for timely attainment of the CO standard.

EPA's Proposal

On January 27, 1986 (51 FR 3346), EPA proposed action on the 1984 Pima County CO attainment demonstration. It proposed (1) to deny the State's request for an attainment date extension to December 31, 1987, (2) to find that the plan, as revised by the 1984 update, does not meet the requirement in section 172 for a plan demonstrating attainment of the CO standard as expeditiously as practicable and (3) based on that finding, to impose the moratorium on the major new construction and major modification of stationary sources of CO in the entire Tucson CO Air Planning Area under section 110(a)(2)(I) of the Act. The reasons supporting the proposal are described indetail in the January 27 notice and associated technical support document. As stated earlier with respect to the Maricopa CO plan, EPA proposed that the construction moratorium would not be lifted until the State submitted a further modeling analysis. The analysis must adequately demonstrate that the measures the State submitted, together with the new I/M measures described earlier, will attain the CO standard in the area as expeditiously as practicable. See 48 FR 50697 (November 2, 1983).

Public Comment

The State of Arizona submitted two comments on the Pima proposal. These comments and EPA's responses are set forth below.

Comment. Arizona challenges EPA's reasoning for proposing to deny the State's request for an attainment date extension for the Tucson CO Air Planning Area. The State contends that, since the monitoring data and hotspot analyses did not reveal the need for more time to attain the CO standard until after the initial round of Part D planning, the State could not have requested the extension any earlier. Moreover, the State claims that its effort to address the problem of post-1982 attainment in its plan update, as soon as possible after discovery of the problem, "substantially satisfies" EPA's policy of approving extension requests submitted within the initial round of Part D planning.

Finally, Arizona claims that EPA's 1983 policy on compliance with Part D allows attainment date extensions beyond the initial five-year period for newly discovered nonattainment areas. 48 FR 50695 (November 2, 1983). The State then contends that this policy logically could also apply to Tucson, which discovered only after submittal of its initial Part D SIP that it could not attain by the end of 1982.

Response. EPA is not taking final action on the State's extension request for the Tucson CO Air Planning Area at this time. The Agency is still considering Arizona's comments and will act on the extension at a later date, in a separate **Federal Register** notice. As described below, however, EPA believes that it is appropriate to take action on the Pima CO plan without waiting to take final action on the extension request.

Comment. Arizona contends that the EPA should use the SIP call procedure under section 110(a)(2)(H) rather than a disapproval of the plan as a whole to address the inadequacy of the Pima CO plan to bring about timely attainment. The State contends that, under EPA's 1983 Part D policy, a plan is not typically disapproved just because, as in the case of the 1978 Pima CO plan, the attainment demonstration that EPA originally evaluated and approved is later revealed to be inadequate. The State claims that imposing the construction ban because of a plan's failure to bring about attainment by the end of 1982 would be inconsistent with the 1983 policy, which endorsed the concept that the ban is reserved for Part D planning failures, not failures to attain.

Response. As stated in EPA's response to Arizona's comments on the Agency's disapproval of the Maricopa CO SIP, EPA's 1983 policy does set forth the Agency's approach to SIP planning for areas that did not attain the national ambient air quality standards by the end of 1982. The policy states, under the heading "Areas with approved plans that did not attain by December 31, 1982" that "Where a fully approved Part D plan failed to bring about attainment by the end of 1982, EPA will treat the plan as 'substantially inadequate' to assure attainment under section 110(a)(2)(H) and call for a SIP revision." 48 FR 50693. Moreover, the regulatory provision published with the 1983 policy states that the construction moratorium "shall not apply to any nonattainment area once EPA has fully approved the State implementation plan for the area as meeting the requirements of Part D." 40 CFR 52.24(a); 48 FR 50697 (November 2, 1983).

That portion of the policy and that regulatory amendment, however, do not apply to the Pima CO SIP. They apply to plans that received full EPA approval as meeting the requirements of Part D. The Pima CO SIP did not receive such an approval. EPA only conditionally approved the Pima CO plan, stating that the plan lacked adequate requirements for the preconstruction review of new sources and major modifications.

Moreover, disapproval of the Pima plan and imposition of the construction moratorium for CO would be consistent with the rationale supporting the 1983 policy. In the 1983 notice, EPA stated that it would not disapprove a SIP for a nonextension area and impose the construction moratorium just because that SIP did not actually bring about attainment by the end of 1982. Instead, EPA stated that States that discovered the inadequacy of their initial Part D plans after those plans received approval would be given an opportunity to revise the plans to bring about attainment as expeditiously as practicable. Under the policy, EPA would apply sanctions only if those revised plans failed to meet the Part D requirements.

The 1984 Pima CO plan revision represented Arizona's effort to supplement the area's 1978 SIP, which by 1982 had been shown inadequate to bring about attainment of the CO standard by the end of that year. Hence, the State has had the opportunity afforded by EPA's 1983 policy to avoid a construction moratorium by revising the 1978 Pima CO SIP, and EPA has determined through this rulemaking that the plan still does not satisfy the requirement for an adequate attainment demonstration. Thus, under the reasoning of the 1983 policy, it is now appropriate to apply a construction moratorium. Because the Pima CO plan has never received full approval, the appropriate construction moratorium is the one provided in section 110(a)(2)(I) of the Clean Air Act.

Final Action

For the reasons explained in EPA's proposal on the Pima County CO plan, EPA today is (1) approving the measures in the area's 1984 CO plan update, because those measures are helpful to attainment of the CO standard, (2) finding that the Part D CO plan for the Tucson CO Air Planning Area does not meet the requirement for a plan demonstrating attainment as expeditiously as practicable and (3) based on that finding, to impose the moratorium on the construction of major new sources and major modifications of sources of CO in the Tucson CO Air Planning Area, effective thirty days from today.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. EPA does not have

sufficient information to determine the impacts that the construction moratoria announced in today's notice may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action were to have a significant impact, however, the Agency could not modify its action. Under the Clean Air Act, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the act.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by sixty days from the date this notice appears in the Federal Register. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2).]

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Intergovernmental relations.

Dated: September 15, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. The authority citation for Part 52 continues to read as follows:

Authority: [42 U.S.C. 7401–7642.]

2. Section 52.123 is amended by removing paragraphs (c)(1) and (c)(2) and redesignating paragraph (c)(3) as paragraph (c)(1).

3. Paragraph (b)(e)(1) and (e)(2) of 52.123 are revised to read as follows:

§ 52.123 Approval status.

* * * * *

(b) With the exception set forth in §§ 52.130 and 52.135, the Administrator approves the inspection and maintenance (I/M) program for motor vehicles; the carpool matching program; certain transit improvements; and certain traffic flow improvement and site-specific traffic control measures.

* * * * *

(e) * * *

(1) Maricopa County Urban Planning Area for CO and TSP.

(2) Tucson CO Air Planning Area for CO.

* * * * *

4. Paragraphs (a)(1) and (a)(2) § 52.124 are revised to read as follows:

§ 52.124 Part D conditional approval.

(a) * * *

(1) The Maricopa County Urban Planning Area portion of the Arizona SIP is approved as satisfying Part D requirements for ozone provided the following condition is met:

(i) By August 3, 1982, the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980).

(2) The portion of the Arizona SIP relating to TSP in the portion of the Tucson TSP Air Planning Area described in § 52.123(c)(1) is approved as satisfying Part D requirements provided the following condition is met:

(i) By November 4, 1982, the NSR regulations must be revised to meet the requirements in EPA's amended regulations for NSR (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766)).

[FR Doc. 86–21492 Filed 9–22–86; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 81

[A–5–FRL–3085–2]

Designation of Areas for Air Quality Planning Purposes; Minnesota

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice changes the attainment status designation for Air Quality Control Region 131 (comprised of the seven Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington) in Minnesota relative to the carbon monoxide (CO) National Ambient Air Quality Standard. The current CO air quality status for all of AQCR 131 is nonattainment of the primary standard. Based upon the review of available data, USEPA is retaining a primary nonattainment area of approximately 15 square miles within the City of St. Paul (Ramsey County) and is redesignating the remainder of AQCR 131 to attainment.

DATE: This final rulemaking becomes effective October 23, 1986.

ADDRESSES: Copies of the redesignation request and the supporting data are available at the following addresses:

Regulatory Analysis Section, Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Minnesota Pollution Control Agency, 1935 West County Road B–2, Roseville, Minnesota 55113.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, (312) 886–6038.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (Act), the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

The primary NAAQS for carbon monoxide (CO), which is set forth at 40 CFR 50.8, is violated if, more than once in a year, CO concentrations exceed either: (1) The maximum allowable 8-hour concentration of 10 milligrams per cubic meter of air (mg/m^3), or (2) the maximum allowable 1-hour concentration of 40 mg/m^3.

USEPA's criteria for supportable redesignation requests, as they pertain to CO, are discussed in the following USEPA memoranda:

1. June 12, 1979, from Richard G. Rhoads, to Directors of Air and Hazardous Materials Divisions, Regions I–X, Subject: "Section 107 Redesignation Criteria".

2. April 21, 1983, from Sheldon Meyers, to Directors of Air Management Divisions, Subject: "Section 107 Designation Policy Summary".

3. December 23, 1983, from G.T. Helms, to Chiefs of Air Programs Branches, Region I–X, Subject: "Section 107 Questions and Answers".

The USEPA's policy relevant to CO redesignations is summarized as follows:

1. Generally, eight quarters of ambient air quality data showing no violations of the NAAQS are required to support a redesignation to attainment.

2. All available data relative to the attainment status of an area must be reviewed. These data must include the most recent eight consecutive quarters of quality assured, representative air quality data, plus evidence of an implemented control strategy that USEPA has fully approved. Available modeling data must also be considered.

3. An attainment designation can be supported using the most recent four quarters of exceedance-free ambient data if an acceptable state-of-the-art modeling analysis is provided showing that actual, enforceable emission reductions are responsible for the observed air quality improvement.

On March 3, 1978 (43 FR 9005), USEPA designated Air Quality Control Region (AQCR) 131 (comprised of the seven Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and

Washington) as nonattainment for carbon monoxide (CO). On June 18, 1984, the Minnesota Pollution Control Agency (MPCA) requested that AQCR 131 be redesignated to attainment, except in St. Paul for the intersection of Snelling and University Avenues and the street corridors up to 1 block from the intersection of these Avenues. Specifically, the MPCA proposed nonattainment area is defined as follows:

Along Snelling Avenue, the nonattainment area would end at Sherburne Avenue on the north and approximately 200 feet south of the Snelling and University intersection. Along University Avenue, the nonattainment area would end at Asbury Street on the east and Roy Street on the west.

To support their request, the MPCA submitted air quality monitoring and modeling data for the Minneapolis/St. Paul area (Ramsey and Hennepin Counties). No CO data were submitted for the remaining five rural counties because no data are available. Air quality monitoring data were submitted for three monitoring sites in the Minneapolis area, and for five sites in the St. Paul area for the period of 1981–1983. Specifically, for the University and Snelling intersection, a special monitoring study was conducted for the period of April and May of 1983. In addition, because of USEPA's previously expressed concerns over the possible existence of isolated, non-monitored CO hotspots (localized areas with CO standard violations), the Minnesota Department of Transportation (MnDOT) conducted modeling for the University and Snelling intersection and three nearby intersections along University and Snelling Avenues. As an explanation of the reason for the air quality improvement in AQCR 131, the State discussed the implementation of transportation control measures. On November 7, 1984, in response to USEPA's request, the State submitted traffic distribution and land use maps for the St. Paul area.

USEPA reviewed the available monitoring and modeling data and on December 17, 1985 (50 FR 51416), proposed to redesignate AQCR 131. USEPA, however, proposed to retain a primary nonattainment area within AQCR 131 that is substantially larger than the area requested by the MPCA. Specifically, the following area was proposed to be retained as primary nonattainment.

A 2-mile wide corridor centered on Snelling Avenue, extending from Randolph Avenue on the south to Larpenteur Avenue on the north, for a length of approximately 5 miles, intersecting with a second 2-mile wide corridor centered on University Avenue, extending from Eustis Avenue on the west to Rice Street on the east for a length of approximately 5 miles.

USEPA proposed to accept the redesignation of the remainder of AQCR 131 to attainment for CO. Because the December 17, 1985, notice of proposed rulemaking contains a detailed evaluation of the support data, it will not be discussed in this notice. USEPA, however, would like to briefly summarize why it proposed that the above area of approximately 15 square miles within the City of St. Paul be retained as primary nonattainment instead of the smaller area requested by the State.

The MPCA had requested that, within the City of St. Paul, the Snelling and University Streets corridors, up to 1 block from the intersection of these avenues, be retained as primary nonattainment and provided supporting data to justify this position. After review of this data, USEPA concluded the State had not provided sufficient information to justify that the University and Snelling intersection is the sole CO hotspot in the area. USEPA believes that a larger area, specifically the 15 square miles described above within the City of St. Paul, has the potential for air quality violations and should be retained as primary nonattainment. USEPA's December 17, 1985, notice of proposed rulemaking contains a detailed discussion of how USEPA determined that the 15-square-mile area within the City of St. Paul is the area where CO hotspots might occur; and we refer you to that notice for further explanation.

Interested parties were given until January 16, 1986, to submit comments on the December 17, 1985, proposed redesignation. No comments were received. Therefore, based on USEPA's analysis of the available data and pursuant to section 107 of the Clean Air Act, USEPA approves the redesignation, as described below.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 24, 1986. This action may be challenged later in proceedings to enforce its requirements. [See section 307(b)(2)].

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

Dated: September 15, 1986.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.324 is amended by revising in the table for "Minnesota—CO" the entry for AQCR 131 to read as follows: (It should be noted that AQCR 131 is comprised of seven counties. The descriptions for AQCR 131 will not be listed on a county-specific basis.)

§ 81.324 Minnesota.

* * * * *

MINNESOTA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 131 (comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington Counties)		
Anoka, Carver, Dakota, Hennepin, Scott and Washington Counties.		X
Ramsey County:		
A 2-mile wide corridor centered on Snelling Avenue extending from Randolph Avenue on the south to Larpenteur Avenue on the north, for a length of approximately 5 miles intersecting with a second 2-mile wide corridor centered on University Avenue, extending from Eustis Avenue on the west to Rice Street on the east for a length of approximately 5 miles.	X	
Remainder of Ramsey County		X

* * * * *

[FR Doc. 86-21493 Filed 9-22-86 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 86-1; FCC 86-377]

Common Carrier Services; WATS-Related and Other Amendments of the Access Charge Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission eliminates the existing exemption from the access charge rules for carriers that "resell private line service to offer services which are not MTS/WATS-type services." The Commission believes that these carriers, like other interexchange carriers, should pay the costs of access to the local exchange network.

EFFECTIVE DATE: January 1, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sandra Eskin, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in CC Docket 86-1, adopted August 14, 1986, and released August 26, 1986. The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Second Report and Order

1. On March 25, 1986, the FCC released a Supplemental Notice of Proposed Rulemaking, CC Docket No. 86-1, (51 FR 11328; April 2, 1986), proposing to delete from section 69.5 of its rules the access charge exemption for carriers that "resell private line service to offer services which are not MTS/WATS-type services." By this Second Report and Order, the Commission adopts the proposed rule change, effective January 1, 1987.

2. The exemption at issue in this Order applies to telex and data service providers who have developed the capability of permitting customers to access their networks via the public switched network rather than via special access lines. Pursuant to the exemption, these carrriers have paid the local business line rate, in lieu of carrier access charges, for the switched access lines they use.

3. The Commission determines in this Second Report and Order that the rate shock concerns that initially prompted adoption of the exemption in question no longer provide sufficient justification for retaining it. When data and telex providers make use of local exchange switched access facilities like carriers offering MTS/WATS-type services, they should pay the same charges as those assessed on MTS/WATS providers. The Commission also rejects requests by data and telex carriers for further transitional relief, noting that an effective date of January 1, 1987, for the rule change provides the affected carriers with sufficient notice. Finally, the Commission clarifies that it did not intend in this proceeding to apply access charges to enhanced service providers.

4. The proposal adopted in the Second Report and Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease the burden hours imposed on the public.

5. The Commission previously determined that the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-12 (1982), are not applicable to proceedings in this docket (which is a continuation of CC Docket No. 78-72) in that local exchange carriers, the parties directly subject to our rules, do not fall within the Act's definition of a small entity. *Id.* section 601.

Ordering Clauses

6. Accordingly, it is ordered that, pursuant to section 4(i), 4(j), 201-205, 218, 220, 403, and 404 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201-205, 218, 220, 403, and 404, the policies, rules and requirements set forth herein are adopted.

7. It is further ordered, That the amendment to Part 69 of the Commission's rules as shown at the end of this document is adopted, effective January 1, 1987.

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers.

PART 69—ACCESS CHARGES

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 69 continues to read as follows:

Authority: Sec. 4(j), 201, 202, 203, 205, 218, 403, and 410 of the Communications Act as amended; 47 U.S.C. 154(i), 154(j), 201, 202, 203, 205, 218, 403, and 410.

2. Section 69.5 is amended by revising paragraph (b) to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

* * * * *

William J. Tricarico,

Secretary.

[FR Doc. 86-21341 Filed 9-22-86; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-169 (Sub-1)]

Automatic Expansion of Zone of Rate Freedom for Motor Common Carriers of Property and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules increasing the zone of rate freedom (ZORF) for motor carriers of property and freight forwarders (49 CFR Part 1312) under 49 U.S.C. 10708(d)(2). The present ZORF is increased from 15 percent to 20 percent on the effective date and thereafter the ZORF is increased by 5 percentage points each year on the anniversary of the effective date, in the absence of Commission action to the contrary.

This rule will satisfy the goals of the national transportation policy by providing carriers with added flexibility to change rates quickly in response to the demands of customers. It will also enable carriers to respond promptly to changes in costs, thereby providing increased flexibility to earn adequate profits. Thus, the rules will enhance the carriers' ability to operate in a financially sound manner.

EFFECTIVE DATE: The rules will be effective on October 23, 1986.

FOR FURTHER INFORMATION CONTACT:
Lance Jensen, (202) 275-7970
or
Louis E. Gitomer, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Proposed rules in ths proceeding were published at 51 FR 6288, February 21, 1986.

The Commission's decision contains additional information. To purchase a copy of the decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4257 in the Washington, DC, metropolitan area or (800) 424-5403, toll-free, outside the DC area.

This action will not significantly affect either the quality of the human

environment or the conservation of energy resources.

The Commission certifies that the rules will not have a significant economic impact on a substantial number of small entities. The rules simply eliminate regulatory lag in connection with certain rate increases.

List of Subjects in 49 CFR Part 1312

Buses, Freight forwarders, Maritime carriers, Motor carriers, Passenger vessels, Pipelines, Railroads.

Decided: September 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley concurred in the result with a separate expression. Vice Chairman Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

Appendix

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

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for Part 1312 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10708, and 10762; 5 U.S.C. 553.

2. Section 1312.4 is amended by revising paragraphs (b)(7) (ii), (iii), (iv), and (vi) as follows:

§ 1312.4 Filing tariffs.

* * * * *

(b) * * *

(7) * * *

(ii) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter must state that the proposed increase in the aggregate is not above the rate in effect 1-year prior to the effective date of the proposed increase by more than the proper percentage in paragraph (b)(7)(vi) of this section.

(iii) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter must state that the proposed reduction in the aggregate is not below the lesser of the rate in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the freight forwarder, or the carrier, on July 1, 1980), or the rate in effect 1-year prior to the effective date of the proposed reduction, by more than the proper percentage in paragraph (b)(7)(vi) of this section.

(iv) The carrier or freight forwarder will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by section 10708(d)(3) (A or B), and the rates or provisions fall within the appropriate zone; also, if the rate is above the rate in effect one year earlier by more than the proper percentage in paragraph (b)(7)(vi) of this section, the carrier or freight forwarder must include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureaus which published the increase, and the effective date.

* * * * *

(vi) At the end of each one-year period after October 23, 1986, the zone of rate freedom percentage will be automatically increased by 5 percentage points, in the absence of Commission action to the contrary. The following table sets for the effective date of each zone expansion for the 10 years following adoption of these rules.

Date	Percentage
Oct. 23, 1986	20
Oct. 23, 1987	25
Oct. 23, 1988	30
Oct. 23, 1989	35
Oct. 23, 1990	40
Oct. 23, 1991	45
Oct. 23, 1992	50
Oct. 23, 1993	55
Oct. 23, 1994	60
Oct. 23, 1995	65

At all times the zone of rate freedom percentage (relating to the upper limit of the zone) will be increased or decreased, as the case may be, by the percentage change in the Producers Price Index (as published by the Department of Labor) that has occurred during the one-year period prior to the effective date of the proposed rate.

* * * * *

[FR Doc. 86-21480 Filed 9-22-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revision of Special Regulations For the Grizzly Bear

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service revises the special regulations for the threatened grizzly bear in the conterminous United States. The rule involves: (1) A new requirement to report taking to Regional Service agents and to Indian Tribal authorities; (2) addition of Tribal authorities to those persons allowed to take grizzly bears under specified conditions; (3) a stipulation that grizzly bears or their parts, taken in self-defense, cannot be possessed or moved, except by authorized Federal, State, or Tribal personnel; and (4) adjustment of the boundaries and quotas associated with the State grizzly hunting season in northwestern Montana. With regard to the last matter, available data indicate that grizzlies in certain areas are declining and should not be hunted, but that increasing grizzly activity elsewhere is leading to bear-human interactions that pose a risk to the main grizzly population. Therefore, this rule will stop hunting in some areas, open it in others, and prohibit it altogether once the known total number of grizzlies killed in one year within the range of the main population, exclusive of Glacier National Park, reaches 21 minus the annually estimated unknown kill in the area, or once the number of female grizzlies killed reaches 6. The estimated annual unknown kill will be set at 7 bears, and thus the total known kill set at 14, until new data show a need for revision.

EFFECTIVE DATE: This rule is effective on September 23, 1986.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Service's Regional Endangered Species Office, Fourth Floor, 134 Union Boulevard, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Roybal, Staff Biologist, Endangered Species Office, Region 6, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236-7398 or FTS 776-7398).

SUPPLEMENTARY INFORMATION:

Background

The grizzly bear (*Ursus arctos*) originally occurred throughout western North America from Alaska to central Mexico. Its populations in the conterminous United States are now apparently restricted to northwestern and northeastern Washington, northern and eastern Idaho, western Montana, and northwestern Wyoming. Fewer than 1,000 individuals are thought to survive in these areas, most of them in northwestern Montana. In the Federal Register of July 28, 1975 (40 FR 31734-

31736), the Service determined threatened status for the grizzly in the conterminous U.S., pursuant to the Endangered Species Act of 1973. Special regulations were issued in conjunction with that determination, and were incorporated into 50 CFR 17.40(b). These rules provided general protection to the species, but allowed taking under certain conditions to defend human life, to eliminate nuisance animals, and to carry out research. In addition, a limited sport hunting season was authorized in a specified portion of northwestern Montana. In the **Federal Register** of August 29, 1985 (50 FR 35086–35089), the Service issued an emergency rule modifying the regulations for this hunting season. That rule recently expired, and experience with various other aspects of the special regulations has shown them to not be fully sufficient for the conservation needs of the grizzly. Thus, it is now necessary to issue permanent revisions that will clarify and/or strengthen the regulations in the four major ways described below. Several minor adjustments and corrections also have been made to the regulations. All of these changes were proposed in the **Federal Register** of July 17, 1986 (50 FR 25914–25919), along with an additional measure on commercial transactions that has not been made final.

Reporting of Taking to Appropriate Authorities

Successful prosecution for illegal taking of grizzly bears is dependent upon a timely, professional investigation. Until now, wording of § 17.40(b)(1)(i)(B), (C), and (E) and (ii)(A) did not provide for timely notification of Regional law enforcement agents of the U.S. Fish and Wildlife Service concerning possible illegal taking. New language requires reporting of the taking of any grizzly bear, within five days of occurrence, to the Assistant Regional Director of the Service's Division of Law Enforcement in Denver, Colorado, or Portland, Oregon. This requirement will provide centralized reporting and there will be no further need to report taking to the Service's Washington, DC offices. The stipulation to report to State authorities will be maintained, but with the added requirement that any taking during the sport hunting season in Montana be reported to the State within 48 hours. In addition, if a grizzly bear is taken on an Indian reservation, it must also be reported to Tribal law enforcement authorities.

Addition of Tribal Authorities to Those Persons Allowed to Take Grizzly Bears

Until now, regulations did not address the need of Indian Tribal authorities to remove nuisance grizzly bears on reservation lands, to carry out research, and to handle unlawfully taken bears. Grizzlies occur on the Flathead and Blackfeet Indian Reservations in Montana. Tribal authorities require authorization to take nuisance bears, when necessary, as part of Tribal management programs. Such authorization will not conflict with State or Federal authorization. The Service therefore amends § 17.40(b)(1)(i)(C)(2) to allow authorized Tribal personnel to take nuisance grizzlies on their respective reservations; amends § 17.40(b)(1)(i)(D) to allow such authorities to take grizzlies for research purposes, provided that such taking does not result in death or permanent injury to the involved bears; and amends § 17.40(b)(1)(ii)(B) to allow such authorities to possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzlies for scientific or research purposes.

Resolution of Jurisdictional Problems With the "Double-take" Theory

Pursuant to § 17.40(b)(1)(i)(B), grizzly bears may be taken legally in self-defense or in defense of others. Until now, persons could recover parts of such bears and lawfully possess them under the legal defense that if the taking of the animal is legal, the taking of its parts can not be illegal. Such a situation may have encouraged the deliberate hunting of inoffensive bears, and the false claim that self-defense was involved. To prevent such taking of parts, the Service now provides explicitly that grizzlies or their parts taken in self-defense may not be possessed, delivered, carried, transported, shipped, exported, or sold, except by authorized Federal, State, or Tribal officers.

Adjustment of Hunting Boundaries and Quotas

The original special regulations issued on July 28, 1975, provided for hunting of the grizzly bear in the Flathead National Forest, the Bob Marshall Wilderness Area, and the Mission Mountains Primitive Area (now Mission Mountains Wilderness Area) of northwestern Montana. Such hunting was to cease once the number of grizzly bears killed throughout northwestern Montana during any one year, from all causes, reached 25. The known grizzly kill in this area has averaged 20 per year since, 1976, including an average annual hunting kill of 10.6. Prior to 1975, the average annual grizzly mortality in the area was 28 (Montana Department of Fish, Wildlife and Parks 1986).

The largest grizzly population in northwestern Montana, and in the conterminous United States, is that of the Northern Continental Divide Ecosystem (NCDE) (U.S. Fish and Wildlife Service 1982). This ecosystem includes Glacier National Park; the Flathead National Forest and adjoining portions of the Helena, Kootenai, Lewis and Clark, and Lolo National Forests (including the Bob Marshall, Great Bear, Mission Mountains, and Scapegoat Wilderness Areas); and some adjacent Bureau of Land Management, State, private, and Indian Reservation lands. Based on a number of recent studies, the Montana Department of Fish, Wildlife and Parks (1986) has estimated the grizzly bear population of the NCDE to contain 549 individuals, of which 356 are found outside of Glacier National Park. The Service is using this estimate in formulating the modification of § 17.40(b)(1)(i)(E) now being implemented. In the remainder of northwestern Montana, there may be no more than a dozen individual bears.

The status of the grizzly varies from place to place within the NCDE. Studies undertaken in various parts of the NCDE indicate that grizzly bear numbers are stable or increasing in some areas, but are decreasing in others (Aune and Stivers 1982, Aune *et al.* 1984, Claar 1985, Mace and Jonkel 1980, Martinka 1974, McLellan 1984, Servheen 1981, 1983). All but one of these studies postdate the original special regulations, which were published in 1975. The Service considers that the new information developed in these studies demonstrates the need to revise the original regulations in order to (1) adjust the boundaries of the areas within which hunting is allowed, and (2) change the level of maximum allowable annual kill, which is currently set at 25. The Service considers that these revisions are required to ensure the continued conservation of the species in all areas where it occurs.

The original regulations allowed for hunting in the Mission Mountains Wilderness Area. The studies indicate, however, that grizzly bear numbers in the Mission Mountains currently are declining. The Service therefore is now revising the regulations so as not to allow for grizzly bear hunting in this area. A different situation exists along the Rocky Mountain Front in the eastern part of the NCDE. The original regulations did not provide for hunting in the east front area beyond the

Flathead National Forest and the Bob Marshall Wilderness Area. Grizzlies consistently use areas along the border of the Flathead National Forest in the Bob Marshall Wilderness Area, and frequent private lands in their movement through cover along riparian zones to low elevations. This movement may be attributable to one or a combination of factors, such as availability of bear foods along riparian zones, artificial food sources (livestock carcass dumps, beehives, etc.), climatic changes, loss of previously utilized habitat, or an actual increase in the size of the overall bear population and consequent dispersal. In any case, grizzly bears in this area prey on livestock and destroy property, and thus pose a possible threat to human safety. Such difficulties are leading to confrontations between people and bears, confrontations that may result in the destruction of the latter. Live-trapping and relocation of bears preying on livestock and damaging property has met with only limited success. Moreover, the processes of trapping, immobilizing, handling, and relocating the animals (usually by helicopter) pose considerable risks to the bears themselves as well as the bear handlers. In 1985, 11 grizzlies were captured in such control measures in the Choteau area of the Rocky Mountain east front; 2 of these animals died as a result of this action, 1 was placed in a zoo, and 8 were released in other parts of the NCDE. Only a single grizzly was removed by control operations in the Choteau area from 1980 to 1984. The 1985 loss represents a new and serious escalation of bear-human conflicts along the east front. Present indications are that such problems will continue to intensify. Already this year, bears are frequenting ranch lands on the east front, exhibiting little fear of humans, damaging beehives, and preying on livestock. As of June 6, 1986, two grizzlies had been relocated or removed from this area.

Because of the two different critical situations described above—the decline of the grizzly population in the Mission Mountains and the escalation of bear-human conflicts on the eastern front of the Rocky Mountains—the Service considers that expedited action is required to alleviate a significant risk to the well-being of the grizzly. In the **Federal Register** of August 29, 1985 (50 FR 35086–35089), the Service issued an emergency rule adjusting the boundaries and quotas for the grizzly hunting season. That rule subsequently expired, and in the **Federal Register** of July 17, 1986 (50 FR 25914–25919), the Service proposed permanent regulations to deal appropriately with the hunting season. The Service acted under an abbreviated schedule because of the escalation in bear-human conflicts on the eastern front of the Rocky Mountains and because of the need to reinstate the conservation-based revisions in the hunting boundaries and quotas established by the August 29, 1985, emergency rule. Differences between the emergency and permanent rules were derived from information that has been newly obtained or more precisely interpreted and applied.

In accordance with section 4(d) of the Act, special regulations on threatened species must be "necessary and advisable to provide for the conservation of such species." Section 3(3) defines conservation, essentially, as measures that are beneficial to the species, and contribute to its recovery and ultimate removal from the List of Endangered and Threatened Wildlife. Special regulations for the grizzly bear, therefore, must be beneficial to the species and be aimed at the particular factors that threaten it.

In its original determination of threatened status of the grizzly, on July 28, 1975, the Service decided that strictly controlled hunting would be a necessary element in the conservation program for the species. The Service continues to hold that regulated hunting is necessary and advisable for the conservation of the grizzly in northwestern Montana, and considers that such hunting should now be applicable in portions of the Rocky Mountain east front. Such hunting would tend to eliminate those bears that are unwary of humans and thus most likely to come into conflict with people. The remaining bears would likely be wary of humans and less likely to become involved in depredations or bear-human conflicts that would lead to control actions and possible mortality. This last point is supported by the studies of Elgmork (1978) and Mysterud (1977), who provided evidence that brown bear populations, long-exposed to human exploitation, did exhibit wariness, and by the work of Herrero (1985), who reported that bear-human confrontations are associated more frequently with unhunted, rather than hunted, bear populations. To help reduce the further escalation of problems on the east front, and in other areas, hunting also should continue in the Flathead National Forest (except that portion including the Mission Mountains) and the Bob Marshall Wilderness Area, and should be extended into the adjoining Scapegoat Wilderness Area and some adjacent lands. In order to more precisely delineate the involved areas, and to facilitate their identification on the ground, the Service is now using mainly highways as boundaries for these areas (see accompanying map).

The Montana Department of Fish, Wildlife and Parks (1986), in developing its proposed levels of hunting, and female quotas, reviewed data from several studies and determined that the average annual human-induced mortality allowable to maintain a stable population was 6.5 percent. However, in order to achieve recovery of the grizzly population in the NCDE, the conservation program must be geared toward increasing the existing population rather than just maintaining stability. This population is estimated to contain 356 bears, exclusive of Glacier National Park. Computer simulations have indicated that, if an annual human-induced mortality of 6 percent per year occurs, this population could still experience a general increase in numbers (Montana Department of Fish, Wildlife and Parks 1986). Six percent of 356 is approximately 21 bears, but it is also known, based on recovery of dead radio-collared grizzlies, that there is now an unknown, unreported kill in the NCDE. Therefore, the new regulations set the maximum allowable known kill be set at 21 minus a figure representing the annual estimated unknown, unreported kill. The State of Montana, in agreement with the Service, will have the authority to adjust the latter figure, based on new scientific information, as it becomes available, and thus to adjust the allowable known kill (within the maximum limit of 21). The present estimate of annual unknown human-induced mortality in the NCDE is 7, and that estimate will be used until new data show a need for revision. Therefore, the known annual kill limit for the NCDE will be initially set at 14 grizzlies.

Under the revised regulations, the known number of grizzly bears killed or removed during any calendar year will include not more than six females. This figure is based on records indicating that annual mortality from hunting, from 1957 to 1984, averaged 40 percent female, and on the presumption that a greater rate of female mortality would be damaging to a grizzly population (Montana Department of Fish, Wildlife and Parks 1986). The State of Montana will propose grizzly hunting regulations to minimize the kill of female grizzly bears. The new quota of six females known killed per year is an upper limit, and State conservation measures and regulations will seek to maintain a

female kill not to exceed that limit. The apportionment of the female kill into subunits of the NCDE will be at the discretion of the State of Montana through its annual hunting regulations. To further reduce the likelihood of female mortality, there will be no hunting of grizzly bears accompanied by young in any part of northwestern Montana, as such grizzlies would in all likelihood be females.

The Service recognizes that hunting or depredation hunts may be necessary and advisable in the future in other portions of the species' range, such as the Yellowstone region of Wyoming, as grizzly numbers increase in response to conservation efforts. Depredation hunts would involve the taking of grizzly bears, deemed nuisance animals and unsuitable for further relocation, by licensed hunters accompanied by authorized State personnel. Further determinations to open a hunting season or implement a depredation hunt would be based on the most current data regarding grizzly numbers and population status, and would require publication in the **Federal Register** of a proposed rule for public comment.

The State of Montana normally opens its grizzly bear hunting season in northwestern Montana from mid-September to early October. The State bases its hunting regulations on the quotas and boundaries set forth in the Service's special regulations. In order to assure adequate conservation of the grizzly bear, the Service must issue its revised special regulations prior to the opening of the State hunting season.

Summary of Comments and Recommendations

In the proposed rule of July 24, 1986, and associated notifications, the Service requested comments from the public by August 6, 1986. This abbreviated comment period was needed to allow time to issue the final rule prior to the opening of the State hunting season. The Service received 18 letters commenting on the proposed rule. Commenters included the Safari Club International; Wildlife Information Center, Inc.; Wildlife Management Institute; Chevron USA, Inc.; The Wildlife Legislative Fund of America; Montana Farm Bureau Federation; Rocky Mountain Oil and Gas Association, Inc.; National Park Service-Glacier National Park; National Audubon Society; Montana Department of Fish, Wildlife and Parks; Sierra Club Legal Defense Fund, Inc.; Defenders of Wildlife; the Great Bear Foundation; and several private individuals.

Nine letters were received in support of the proposal. In addition, many letters supported the majority of provisions in the proposed rule, but expressed opposition to or concerns regarding the grizzly bear hunt in northwestern Montana. All comments received are available for public inspection (See **ADDRESSES**). Summaries of comments on the proposed rule and the Service's response to questions and comments follow (C=Comment; R=Service's Response).

Reporting of Taking to Appropriate Authorities

The majority of commenters on this issue supported the proposed changes in the reporting requirements. *C.* One individual stated that the 5-day period was too long to allow timely investigations. The National Audubon Society stated that there should be one clearinghouse/contact for all grizzly mortality information and that the State of Montana should assume this role. *R.* The 5-day requirement for reporting taking is realistic in view of the often remote locations of such incidents and is adequate to allow for timely, professional investigations. The rule does remove the existing requirements of reporting to the Service's office in Washington, DC, and establishes the Assistant Regional Director of the Service's Division of Law Enforcement in either Denver, Colorado, or Portland, Oregon, as the centralized contact point. The special regulations apply to grizzly bear populations throughout the species' range in the conterminous United States (including Montana, Wyoming, Idaho, and Washington). Because of the multi-State involvement and the possibility that taking will occur in all of these States, the Service considers it more prudent to establish a Federal agency as the central contact point.

Addition of Tribal Authorities to Those Persons Allowed to Take Grizzly Bears

The majority of commenters addressing this amendment supported the proposal. *C.* Several commenters stressed that actions authorized for Tribal authorities should be conducted in concert with other interagency actions. One commenter was concerned that currently there are no "interagency guidelines" covering the taking of nuisance grizzly bears outside of the Yellowstone ecosystem. *R.* The Service has participated in the formulation of interagency guidelines for management and control of nuisance grizzly bears for all ecosystems. In regard specifically to northwestern Montana, all agencies have been operating for several years under interagency guidelines similar to those developed for the Yellowstone area. These guidelines have been standardized and incorporated into the "Interagency Grizzly Bear Guidelines." These revised guidelines have not, as of this writing, been published in the **Federal Register**. However, they were subjected to public review and revision, and have since been approved and printed. Thus, they are available to involved agencies. In recognition of the concern for tying control actions, etc. to established criteria and guidelines, as well as to accommodate the dynamic nature of grizzly bear management, the term "existing" § 17.40(b)(1)(i)(C)(2) has been changed to "current." *C.* One commenter recommended that taking for scientific or research purposes be limited to live-capture. *R.* The Service agrees and has modified § 17.40(b)(1)(i)(D) accordingly.

Resolution of Jurisdictional Problems With the "Double Take" Theory

Several commenters strongly supported this proposed amendment, and no letters received were in opposition to the proposed change.

Commercial Transactions

The Service proposed to modify § 17.40(b)(1)(iv) to authorize the sale of grizzly bears or their parts, including those taken illegally, by State and Tribal authorities in accordance with State and/or Tribal laws and regulations. *C.* All commenters who specifically addressed this modification opposed, either categorically or with qualifications, the sale of grizzly bears or their parts taken illegally or as nuisance bears, or taken in self-defense. Reasons for opposition to the proposed modification included: belief that the sale of grizzly bear parts would create an additional demand and thus result in additional bear mortalities; opposition to commercialization of wildlife, particularly threatened species; belief that the additional provisions would make it more difficult for law enforcement agents to detect and reduce illegal trade in bear parts and would encourage illegal killing of grizzly bears to satisfy market demand; lack of evidence that allowing such sale would aid in the conservation of grizzly bears; the small amount of net profit that would be derived from the sale; and the lack of assurance that the proceeds would be used for grizzly bear conservation. One commenter recommended prohibitions on the sale of all grizzly bear parts.

R. Current statutes prohibit the sale of illegally taken endangered species, as well as interstate and foreign commerce in endangered species. Under the authority of the Endangered Species Act, regulations may prohibit, with

respect to threatened species, any act prohibited for endangered species. Consequently, the Service can restrict interstate and foreign commerce in legally taken grizzly bears and the possession and sale of illegally taken grizzly bears. However, at the present time, the transport of legally taken bears from Alaska and Canada is essentially unrestricted. Therefore, a legal source market for bear parts does currently exist. Intrastate commerce in legally taken grizzly bears and their parts is unrestricted by the statute (Endangered Species Act), and therefore can not be restricted by regulation. The proportion of grizzly bear parts taken from the contiguous 48 United States makes up only a minor portion of the total number of grizzly bear parts available and consequently would have, at most, only a minor effect on either the legal or illegal market. The sale of parts by State and/or Tribal authorities could be expected to have little effect on the demand from the illegal market. However, it would also generate little net revenue with no real assurance that this revenue would be used for the conservation of the grizzly bear. Therefore, because of the potential risk of increased illegal take, the confounding effect on law enforcement efforts, and the lack of any substantive conservation benefit to the species, the Service is withdrawing the proposed modification. Provisions in the original special regulations, which prohibit all commerce in illegally taken grizzly bears or their parts, and prohibit interstate and foreign commerce, are maintained.

Adjustment of Hunting Boundaries and Quotas

C. Eight commenters voiced opposition to the grizzly bear hunt in northwestern Montana. Three stated that it was preposterous, illogical, and inconsistent to permit hunting of a threatened species. One commenter stated that establishment of a sport hunt for grizzly bears does not constitute an act of conservation and is not necessary to foster recovery; therefore, it falls outside of the scope of activities that can be authorized. Two commenters pointed out the lack of evidence presented that grizzly population pressures in northwestern Montana have created extraordinary circumstances requiring a sport hunt, and that there is little conclusive data on the status of the grizzly bear in the NCDE (citing the Interagency Grizzly Bear Committee (IGBC) task force report, which found that available data did not permit the task force to estimate total numbers of bears, to detect any significant trend, or even to confirm population stability in the NCDE). Both commenters felt that available data contradict the notion of population pressures and that the proposed rule calls for hunting in areas where populations are clearly not near carrying capacity. *R.* The Service recognizes that the hunting of a threatened species is a matter of concern and has allowed the hunt of the grizzly bear only with strict limitations upon the number of bears taken and the distribution of the kill. The particular habits of the grizzly bear, being a large, opportunistic omnivore capable of threatening humans and utilizing human foods in close proximity to people, make the management of this species a special case.

Strictly limited sport hunting will tend to eliminate those bears that are unwary of humans and those most likely to come into conflict with people. Bear-human conflicts have been the source of a large number of bear mortalities in the past. Such conflicts will continue to arise as people and their foods occupy larger portions of grizzly bear habitat.

The nature of the grizzly bear is such that some animals will investigate human-use areas. If they obtain human foods, such grizzlies will possibly become behaviorally adapted and thus continue to frequent such areas and seek further food rewards. Total protection of the species would lead to increasing conflicts resulting in bear deaths and negative reactions from the local public. Such would not benefit the conservation of the grizzly and might result in more illegal kills. People are intolerant of having grizzly bears in close proximity. Limited sport hunting provides an opportunity to remove those bears that have the tendency to come into conflict with people.

C. Some commenters noted that any sport hunt should be directed specifically at problem bears that have become a nuisance around human-use areas. *R.* Presumably these commenters were proposing that sport hunting either be directed at specific nuisance bears or that sport hunting be limited solely to those areas where bear/human conflicts have occurred. This type of management is reactive and requires that human/bear conflicts occur in order for hunting to be implemented. The Service, on the other hand, considers that a hunt distributed throughout major portions of the ecosystem on an annual basis will be a preventive conservation measure, which will eliminate those unwary animals most likely to come into conflict with human interests. While the service recognizes that a limited sport hunt will not eliminate all human/bear conflicts, it does consider that a preventive program will not only eliminate a significant portion of the unwary bears on an annual basis, but will also promote a positive conservation ethic among persons who value the grizzly as a trophy animal. The Service further considers that the conservation of the grizzly is assured by the quota system, which rigorously records all human-induced mortalities and assures that hunting mortality, in combination with all other sources of human-induced mortality, such as control and illegal kills, does not exceed allowable mortality levels for the population.

C. Some commenters noted that sport hunting has removed bears from the Bob Marshall Wilderness Area each year for the past 11 years, while there is little evidence that bear-human conflicts exist in that area. These commenters stated that the lack of bear-human conflicts in the wilderness indicates there should be no sport hunt in this area. *R.* The sport hunt in the Bob Marshall Wilderness, if limited by a quota system, has the potential to annually eliminate those unwary bears that could become problems. The lack of evidence of bear-human conflicts in the wilderness is, to a certain extent, the result of the annual hunt that has occurred in that area in the past.

C. Several commenters noted the importance of demonstrating that excessive population pressures exist for the grizzly prior to the initiation of any sport hunt. *R.* It is pertinent to understand that sport hunting already is occurring, pursuant to the original 1975 rule that determined threatened status for the grizzly, and designated special regulations for such hunting. This new rule actually sets more stringent requirements regarding the number of grizzlies that may be taken by such means. Moreover, in the original rule (40 FR 31735), the Service explained that grizzly population pressures in the NCDE were leading to serious bear-human conflicts, and that carefully regulated sport hunting was a necessary means of dealing with the situation. The Service continues to hold these views with respect to the overall status of the grizzly in the NCDE. The Service recognizes, however, that specific population data on the grizzly bear are not available for large parts of the NCDE. Such precise data are difficult if not impossible to obtain. The Service considers that the revised quota is a conservative approach that can only benefit the species.

C. Several commenters noted the need for annual review of Montana's hunting season by the Service as part of its

responsibilities under the Endangered Species Act. *R.* The Service recognizes that it is important to annually review the mortaility data from the NCDE to ensure that the sport hunt does in fact meet its conservation objectives. Therefore, in close cooperation with the Montana Department of Fish, Wildlife and Parks, the Service will annualy review these data to assess the impacts of mortalities in this ecosystem.

C. Four commenters perceived an inconsistency in placing restrictions on oil and gas development in grizzly bear habitat in order to protect grizzlies, while simultaneously proposing a sport hunt in the same areas. Some felt that a double standard was being set. *R.* The Service does not consider that coordination of multiple-use activities with grizzly bear habitat requirements and regulated hunting of the species presents a double standard. In order to achieve recovery, habitat capable of supporting the recovered population must be available and managed to sustain the species. Without this habitat, the species could not exist. One of the primary purposes of the Act is to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved. Some multiple-use activities, such as timber harvesting, mining, and oil and gas development, if not properly conducted, can adversely modify or destroy the habitat, rendering it incapable of supporting a recovered grizzly bear population. This may occur either directly or indirectly, or as the result of the cumulative effects of a number of human-caused disturbances. In addition to maintaining sufficient habitat to support a recovered population, the Service recognizes that human-caused mortalities, both legal and illegal, must be controlled to ensure that recovery of the species is not jeopardized. The Service is confident that the designated harvest, using both a total and female quota, will not preclude recovery of the NCDE grizzly population.

Quota

C. Several commenters questioned the basis for the hunting quota established by the Service. Specifically, commenters noted that the female subquota of 6 bears exceeded the "safe level of total female grizzly mortality" as derived from a computer model by Richard Harris cited in the Montana Department of Fish, Wildlife and Parks Environmental Impact Statement (EIS). *R.* The Service developed its proposed quota of 6 females per year by multiplying the population estimate of 356 bears by 6 percent (which is the total human-induced mortality that would result in an increasing population) to yield 21.36 bears in the total quota. The estimated unknown, unreported annual mortality of 7 bears was then subtracted from 21.36 to yield 14.36 allowable, known, human-caused mortalities per year. To reach the female subquota, 14.36 was multiplied by 40 percent, which is the average annual female kill proportion in Montana for the last 10 years. This yielded an annual female subquota of 5.7 bears per year. The Service failed to note in the proposed rule that a certain proportion of the 7 unknown unreported bears killed each year would be females. If this 40 percent (the percentage of the kill that is known to be female) is applied to the 7 unknowns, 2.8 unknown unreported female mortalities could be expected each year. This unknown kill of 2.8, when added to the 5.7 known kill, yields 8.5 females killed per year.

The commenter, who suggested that this number exceeded a "safe" level of female mortality, used the estimate that no more than 3 percent of the female segment of the population could be killed each year. This 3 percent was estimated by Richard Harris as his idea of a conservative approach. In order to use the calculation of 3 percent of the female segment of the population, one must know the proportion of females in the total population. There are no empirical data on the proportion of females in the total population in the NCDE. Harris, as cited in the Montana Department of Fish, Wildlife and Parks EIS, estimated that 60 percent of the population was female. Using this estimate and the original estimate of 356 yields 213.6 females in the population. Three percent of 213.6 is 6.4 females, and that number could be considered a "safe" annual female mortality according to Harris. It is important to note, however, that the computer model actually yielded a nondeclining population when up to 3.5 percent of the female population segment was killed per year. Using this value of 3.5 percent of the female population yields 7.48 females that could be killed per year in a nondeclining population.

The Service recognizes that Harris' computer model is useful for the determination of mortality management strategies for the NCDE. However, considering the assumptions entering into the model, and that the model is of an isolated population while the quota is applied to one segement of a larger contiguous population that continues northward into Canada, the Service doubts that sufficient precision exists to change the female subquota by 1 or 2 bears based solely on the computer model. The Service believes that its current quota of 14 total or 6 female bears provides sufficient protection for the population and is warranted by the existing information. The State of Montana will attempt to further minimize the kill of females through specific regulations, which provide additional protection for females in this ecosystem.

Boundaries

C. Several commenters questioned the boundaries of the hunting area in the NCDE and/or whether the Mission Mountains segment should be eliminated from the hunting area. *R.* The Mission Mountains are located in the southwest corner of the NCDE. This mountain range runs north/south and is geographically separated from the rest of the NCDE by the Swan Valley, a semideveloped area that is the only access between the Missions and the Bob Marshall-Glacier Park section of the ecosystem. This means that the grizzly population in the Mission Mountains is basically insular and receives no influx of bears from other areas of the ecosystem. The grizzly bear density in the Mission Mountains is low and the population is thought to be declining due to habitat disturbance and bear-human conflicts, which result in illegal or control killing of bears. Although hunting has not been implicated as one of the factors affecting the decline of the grizzly in the Missions, the elimination of hunting in this area will remove the possibility that hunting could be an additive detrimental factor to this isolated population. No other area in the NCDE has the geographic characteristics of the Mission Range, characteristics which separate it and its grizzly bear population from the rest of the ecosystem. Therefore, the Service does not feel it is justified to categorically eliminate hunting in any other particular area of the ecosystem and will leave such restrictions to the discretion of the State.

C. Several commenters mentioned that the Badger-Two Medicine area should also be eliminated from the area to be hunted. *R.* The Badger-Two Medicine area includes a set of drainages that are contiguous with adjacent grizzy bear habitat in the Bob Marshall and Great Bear Wilderness areas to the west, the Rocky Mountain Front area to the south, and Glacier National Park to the north. There are no intervening valleys occupied by people, which geographically separate the Badger-Two Medicine area from contiguous populations. The Service is

confident that the State will fully exercise its management abilities regarding the sport hunting season in any areas where the population is thought to be affected by human impacts. The Montana Department of Fish, Wildlife and Park's EIS on grizzly bear management states that, when information indicates that closing an area to hunting is necessary to protect a segment of the NCDE population, the Department is prepared to do so during the State's annual season setting process. The Service will continue to encourage the Department to develop monitoring procedures that will identify those areas that may require temporary closure to hunting.

Glacier Park Included in Quota

C. The National Park Service, which was one of the above parties arguing against all sport hunting of grizzlies, also recommended that the quota set for human-induced mortalities include mortalities that occur in Glacier National Park. The Service rejects this recommendation because the Park grizzly population was not included in the original calculation of the quota. Therefore, mortalities within the Park should not be counted against the quota. In addition, the Montana Department of Fish, Wildlife and Parks has no management jurisdiction within the Park and the grizzly is not hunted there.

National Environmental Policy Act

An environmental assessment (EA), as defined under the authority of the National Environmental Policy Act of 1969, has been prepared in conjunction with this rule and is available to the public at the Service's Denver Regional Office address listed above. The Service concludes that adoption of this revised final rule is not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

References

Aune, K., and T. Stivers. 1982. Rocky Mountain front grizzly bear monitoring and investigation. Montana Department of Fish, Wildlife and Parks, Helena, 143 pp.

Aune, K., T. Stivers, and M. Madel. 1984. Rocky Mountain front grizzly monitoring and investigation. Montana Department of Fish, Wildlife and Parks, Helena, 138 pp.

Claar, J. 1985. Flathead Reservation grizzly bear management. Draft, U.S. Bureau of Indian Affairs.

Elgmork, K. 1978. Human impact on a brown bear population (*Ursus arctos* L.). Biological Conservation 13:81–86.

Herrero, S. 1985. Bear attacks—their causes and avoidance. Nick Winchester Press, New Century Publishers, Inc., Piscataway, New Jersey. 287 pp.

Mace, R.D. and C., Jonkel. 1980. Ackamina-Kishinena grizzly project. *In* Jonkel, C. (ed.), Annual Report 5, Border Grizzly Project, University of Montana, Missoula, pp. 9–48.

Martinka, C. 1974. Population characteristics of grizzly bears in Glacier National Park, Montana. Journal of Mammology 55:21–29.

McLellan, B. 1984. Population parameters of the Flathead grizzlies. Canadian Border Grizzly Project, 28 pp.

Montana Department of Fish, Wildlife and Parks. 1986. Final programmatic environmental impact statement. The grizzly bear in northwestern Montana. Helena, 298 pp.

Mysterud, L. 1977. Problems in research management of the brown bear in Norway. Viltrapport 4:19–51.

Servheen, C. 1981. Grizzly bear ecology and management in the Mission Mountains, Montana. Ph. D. Dissertation, University of Montana, Missoula, 138 pp.

Servheen, C. 1983. Grizzly bear food habits, movements, and habitat selection in the Mission Mountains, Montana. Journal of Wildlife Management 47:1026–1035.

U.S. Fish and Wildlife Service. 1982. Grizzly bear recovery plan. USFWS, Denver, Colorado, 190 pp.

Author

The primary author of this rule is Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, HS 105D, University of Montana, Missoula, Montana 59812 (406/329–3223 or FTS 585–3223).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17 Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.40(b) is revised to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(b) Grizzly bear (*Ursus arctos*)—(1) *Prohibitions.* The following prohibitions apply to the grizzly bear:

(i) *Taking.* (A) Except as provided in paragraphs (b)(1)(i)(B) through (F) of this section, no person shall take any grizzly bear in the 48 conterminous states of the United States.

(B) Grizzly bears may be taken in self-defense or in defense of others, but such taking shall be reported, within 5 days of occurrence, to the Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7540 or FTS 776–7540), if occurring in Montana or Wyoming, or to the Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1490, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231–6125 or FTS 429–6125), if occurring in Idaho or Washington, and to appropriate State and Indian Reservation Tribal authorities. Grizzly bears or their parts taken in self-defense or in defense of others shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

(C) *Removal of nuisance bears.* A grizzly bear consituting a demonstrable but non immediate threat to human safety or committing siginficant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(*1*) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed in a remote area the grizzly bear involved; and

(*2*) The taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with current interagency guidelines covering the taking of such nuisance bears; and

(*3*) The taking is reported within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(D) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may take grizzly bears for scientific or research purposes, but only if such taking does not result in death or permanent injury to the bears involved. Such taking must be reported within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(E) *Northwestern Montana.* If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bears, except a young grizzly bear or a grizzly bear accompanied by

young, in the area bounded on the north by the United States-Canada border, on the east by Interstate Highway 15, on the south by State Highway 200, on the west by a line extending from the U.S.-Canada border south along U.S. Highway 93 to its intersection with Montana State Highway 82, and then east and south along State Highways 82 and 83, except that this area shall not include Glacier National Park and the Blackfeet Indian Reservation, as defined as follows: Beginning at the intersection of the U.S.-Canada border and the western boundary of Glacier National Park, thence south and east along said boundary to its intersection with the border of the Blackfeet Indian Reservation, thence southeast in a straight line to Heart Butte, thence south along a straight line to the North Fork of Birch Creek, thence east to Swift Dam and along Birch Creek to Cut Bank Creek, thence north along Cut Bank Creek through and approximately 2¾ miles north of the town of Cut Bank, thence north along a straight line to the United States-Canada border, thence west along said border to the point of beginning: *Provided,* That if in any calendar year in question, in that part of Montana, exclusive of Glacier National Park, which is bounded on the north by the United States-Canada Border, on the east by Interstate Highway 15, on the south by State Highway 200, and on the west by U.S. Highway 93, the known number of female grizzly bears already killed or removed, for whatever reason, reaches 6, or if the known total number of grizzly bears already killed or removed, for whatever reason, reaches 21 minus a figure representing the annual unknown, unreported human-induced mortality in that same part of Montana, as estimated on the basis of scientific information by the State of Montana, in agreement with the U.S. Fish and Wildlife Service, then the Director of the Montana Department of Fish, Wildlife and Parks shall post and publish a notice prohibiting such hunting, and any such hunting for the remainder of that year shall be unlawful: *Provided further,* That the estimate of annual unknown, unreported human-induced mortality shall be 7 grizzly bears until new scientific data show, to the satisfaction of the U.S. Fish and Wildlife Service, in close consultation with the State of Montana, that this estimate should be revised: *Provided further,* That, in close cooperation with the Montana Department of Fish, Wildlife and Parks, the Service will annually review all grizzly bear mortality data from the area delineated above to assess the impact of such mortality in this area: *Provided further,* That any legal taking of a grizzly bear in the above-described portion of Montana shall be reported within 48 hours of occurrence to the Montana Department of Fish, Wildlife and Parks, Helena, Montana 59601 (406/444–2535), and within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate Tribal authorities.

(F) *National Parks.* The regulations of the National Park Service shall govern all taking of grizzly bears in National Parks.

(ii) *Unlawfully taken grizzly bears.* (A) Except as provided in paragraphs (b)(1)(ii)(B) and (iv) of this section, no person shall possess, deliver, carry, transport, ship, export, receive, or sell any unlawfully taken grizzly bear. Any unlawful taking of a grizzly bear shall be reported within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(B) Authorized Federal, State, or Tribal employees, when acting in the course of their official duties, may, for scientific or research purposes, possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzly bears.

(iii) *Import or export.* Except as provided in paragraphs (b)(1)(iii) (A) and (B) and (iv) of this section, no person shall import any grizzly bear into the United States.

(A) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may import grizzly bears into the United States for scientific or research purposes.

(B) *Public zoological institution.* Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(iv) *Commercial transactions.* (A) Except as provided in paragraph (b)(1)(iv)(B) of this section, no person shall, in the course of commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce any grizzly bear.

(B) A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce.

(v) *Other violations.* No person shall attempt to commit, cause to be committed, or solicit another to commit any act prohibited by paragraph (b)(1) of this section.

(2) *Definitions.* As used in paragraph (b) of this section:

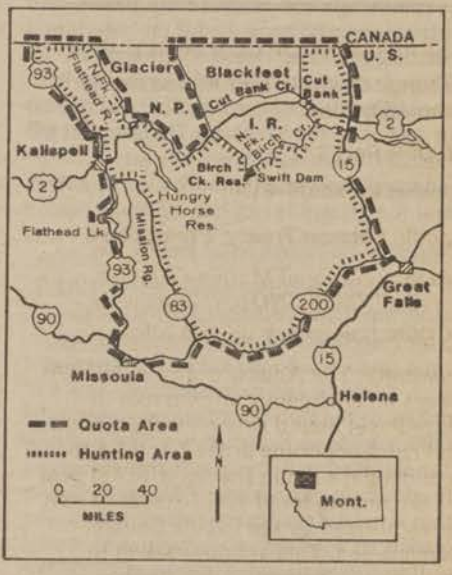
"Grizzly bear" means any member of the species *Ursus arctos* of the 48 conterminous States of the United States, including any part, offspring, dead body, part of a dead body, or product of such species.

"Grizzly bear accompanied by young" means any grizzly bear having offspring, including one or more cubs, yearlings, or 2-year-olds, in its immediate vicinity.

"Identified" means permanently marked or documented so as to be identifiable by law enforcement officials at a subsequent date.

"State, Federal or Tribal authority" means an employee of State, Federal, or Indian Tribal government who, as part of his/her official duties, normally handles grizzly bears.

"Young grizzly bear" means a cub, yearling, or 2-year-old grizzly bear.



* * * * *

Dated: September 15, 1986.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–21377 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 32

Refuge-Specific Hunting Regulations

Correction

In FR Doc. 86–20168 beginning on page 32321 in the issue of Thursday, September 11, 1986, make the following corrections:

1. On page 32323, in the first column, in amendatory instruction 2, thirteenth line, insert "adding" before "(4)(v)";

§ 32.12 [Corrected]

2. On page 32324, in the third column, in § 32.12(x)(11), fifth line, insert "hunters" after "coot";

3. On page 32325, in the second column, in § 32.12(hh)(12)(ii), first line, "hunter" should read "hunters";

§ 32.22 [Corrected]

4. On page 32326, in the first column, in § 32.22(d)(6)(vi), second line, insert "a" before "campground";

5. On page 32327, in amendatory instruction 4, in the first column, sixteenth line, "(v)" should read "(iv)", and in the forty-second line, "(ii)" should read "(ii)(1)"; and

§ 32.32 [Corrected]

6. On page 32327, in the first column, in § 32.32(a)(2)(iv), third line, "reason" should read "season".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 372

[Docket No. 60976-6176]

Pacific Salmon Treaty; Preemption

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

ACTION: Emergency interim rule.

SUMMARY: The Administrator of NOAA issues an emergency interim rule to close Puget Sound salmon management and catch reporting areas 7 and 7A to commercial salmon fishing with net gear for the remainder of 1986, except as may be authorized by the Pacific Salmon Commission. This action is taken to implement a determination by the Secretary of Commerce to supersede a regulation of the Lummi Indian Tribe which places the United States in jeopardy of not fulfilling its international obligations under the Pacific Salmon Treaty. The action is intended to protect the integrity of the management system established by the Treaty and fulfill international obligations of the United States under the Treaty.

EFFECTIVE DATE: From 2400 hours, local time, September 20, 1986, through 2400 hours, local time, December 31, 1986.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150.

SUPPLEMENTARY INFORMATION: Section 6 of the Pacific Salmon Treaty Act, 16 U.S.C. 3635, authorizes the Secretary of Commerce (Secretary) to supersede any treaty Indian tribal regulation determined by the Secretary to place the United States in jeopardy of not fulfilling its international obligations under the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1986 (Treaty).

Annex IV, Chapter 5, paragraph 3 of the Treaty, states that "[in] 1985, the Parties shall adhere to presently agreed management objectives for Canadian Area 20, U.S. areas 7 and 7A, and Juan de Fuca Strait." This agreement was carried forward to 1986 by a Pacific Salmon Commission action on March 7, 1986, which was approved by the governments of the United States and Canada in an exchange of diplomatic notes effective June 12, 1986, pursuant to Article XIII (3) of the Treaty. "Presently agreed management objectives" refers to the parties' intention to prohibit fisheries on salmon stocks of Canadian (Fraser River) origin in Canadian Area 20, U.S. areas 7 and 7A, and Juan de Fuca Strait, which were not contemplated when the Treaty took effect in 1985, and are not otherwise authorized by the Pacific Salmon Commission. This prohibition was reflected in regulations for the 1984 season promulgated by the Washington Department of Fisheries in the United States and by the Department of Fisheries and Oceans in Canada. The 1984 Washington Department of Fisheries Administrative Order No. 84-132 closed Areas 7 and 7A to all commercial treaty Indian fishing from September 9, 1984 until further notice "to provide protection for Canadian origin chinook and coho."

Regulation number 8624 of the Lummi Indian Tribe, adopted August 8, 1986, opens a commercial salmon fishery which would target on stocks of Canadian origin in U.S. areas 7 and 7A effective September 21, 1986 "until further notice." This fishery was not contemplated in developing the Treaty, and has not been authorized by the Pacific Salmon Commission.

By letter dated September 16, 1986, the United States Department of State informed the Administrator of NOAA that Annex IV, Chapter 5, paragraph 3 of the Pacific Salmon Treaty prohibits U.S. fisheries in areas 7 and 7A, and that the Lummi Indian Tribe regulation places the United States in jeopardy of not fulfilling its international obligations under the Treaty. By telegram dated September 18, 1986, the Administrator of NOAA pursuant to 16 U.S.C. 3635 informed the Lummi Indian Tribe that its regulation is inconsistent with the Treaty and places the United States in jeopardy of not fulfilling its international obligations, requested the Tribe to rescind the regulation, and informed the Tribe of his intent to promulgate federal regulations if remedial action was not taken prior to September 19, 1986. The Tribe has not rescinded its regulation.

The Administrator of NOAA therefore promulgates this emergency interim rule pursuant to 16 U.S.C. 3636(a) to supersede regulation number 8624 of the Lummi Indian Tribe and to prohibit commercial salmon harvests with net gear in Puget Sound salmon management and catch reporting areas 7 and 7A, except as authorized by the Pacific Salmon Commission. Puget Sound salmon management and catch reporting areas 7 and 7A are not areas where terminal fisheries are conducted. Terminal fishing areas of the Lummi Tribe are located outside U.S. areas 7 and 7A, and are not affected by this action. The Secretary of the Interior, the Secretary of Transportation, and the Pacific Fishery Management Council have been consulted.

Classification

This regulation is necessary and appropriate to carry out obligations of the United States under the Treaty, involves a foreign affairs function, and as such is not subject to sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. 553-557), or the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). The rule is necessary to respond to an emergency situation and is consistent with the Treaty, the Pacific Salmon Treaty Act (16 U.S.C. 3631-3644), and other applicable law, including U.S. obligations to Canada and to U.S. treaty Indians. Additional notice of this action is being published in local newspapers in the major fishing ports affected, and is available through the following Area Code 206 toll-free telephone hotlines:

All-citizen fisheries:
1-800-562-6513
Treaty Indian fisheries:
1-800-562-6142
Washington Department of Fisheries.
1-800-562-5672

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with

an explanation of why it is not possible to follow the procedures of that order. In addition, NOAA has determined that this rule is not a major rule within the terms of E.O. 12291 because it will not have a major effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comments.

This rule does not contain any collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 372

Fisheries, Fishing.

Dated: September 19, 1986.

Anthony J. Calio,

Administrator, National Oceanic and Atmospheric Administration.

For the reasons set out in the preamble, Part 372 is added to 50 CFR Chapter III, Subchapter C, as follows:

Subchapter C—Pacific Salmon Commission

PART 372—PACIFIC SALMON TREATY—PREEMPTION

Subpart A—General Provisions

Sec.

372.1 Scope.
372.2 Definitions.
372.3 Restrictions.

Authority: Pacific Salmon Treaty Act, 16 U.S.C. 3635–3636(a).

Subpart A—General Provisions

§ 372.1 Scope.

This regulation applies to all commercial salmon fishing with net gear in Areas 7 and 7A.

§ 372.2 Definitions.

Area 7 means Puget Sound salmon management and catch reporting area 7 which includes those waters of Puget Sound southerly of a line projected true west from the Sandy Point light, northerly of a line project from the Trial Island light to vessel traffic-lane buoy R to the Smith Island light to the most northeasterly of the Lawson Reef lighted buoys (RB 1, Qk F1 Bell) to Northwest Island to the Initiative 77 marker on Fidalgo Island, and westerly of a line projected from Sandy Point to Point Migley, thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island, thence to March Point on Fidalgo Island, excluding those waters of East Sound northerly of a line projected due west from Rosario Point on Orcas Island.

Area 7A means Puget Sound salmon management and catch reporting area 7A which includes those waters of Puget Sound northerly of a line projected true west from the Sandy Point light.

Commercial Fishing means fishing for the purpose of sale or barter of the catch.

Net Gear means gill nets (including set nets), purse seines, reef nets, and beach seines.

§ 372.3 Restrictions.

It is unlawful for any person to engage in commercial fishing for salmon with net gear, or to take and retain, land, or possess salmon taken in the course of commercial fishing with net gear, in Area 7 or Area 7A from 2400 hours September 20, 1986 through 2400 hours December 31, 1986, unless authorized by the Pacific Salmon Commission. A hand-held net may be used to bring hooked salmon on board a vessel.

[FR Doc. 86–21640 Filed 9–19–86; 3:19 pm]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 51, No. 184
Tuesday, September 23, 1986

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

Farmers Home Administration

7 CFR Part 1940

Revision of Policies and Procedures for Considering the Environmental Impacts of Proposed Agency Actions

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise its regulation regarding policies and procedures for considering the environmental impacts of proposed Agency actions. This rule is being proposed in order to make editorial changes, amend processing requirements associated with the completion of environmental reviews, and reference Federal requirements promulgated subsequent to this subpart. The intended effect of this proposed action is to clarify the regulation and provide greater flexibility to Agency officials so that the environmental review can be better incorporated into the Agency's application review process.

DATES: Comments must be submitted on or before November 24, 1986.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, FmHA, Room 6346, South Agriculture Building, Washington, DC, 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Hansel, Environmental Protection Specialist, Program Support Staff, FmHA Room 6309 South Agriculture Building, Washington, DC, telephone (202) 382–9619.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions or significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The FmHA programs and projects which are affected by this rule are subject to intergovernmental consultation in the manner delineated in 7 CFR Part 3015. The Catalog of Federal Domestic Assistance programs affected are: Nos. 10.404, Emergency Loans; 10.405, Farm Labor Housing Loans and Grants; 10.406, Farm Operating Loans; 10.407, Farm Ownership Loans; 10.411, Rural Housing Site Loans; 10.414, Resource Conservation and Development Loans; 10.415, Rural Rental Housing Loans; 10.416, Soil and Water Loans; 10.418, Water and Waste Disposal Systems for Rural Communities; 10.419, Watershed Protection and Flood Prevention Loans; 10.420, Rural Self-Help Housing Technical Assistance; 10.422, Business and Industrial Loans; 10.423, Community Facility Loans; and 10.427, Rural Rental Assistance Payments.

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), Mr. Vance L. Clark, Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because in terms of the Agency's grant programs, less than 30 grants will be affected annually.

The following is a summary of the major changes proposed by this action:

Section 1940.301(c)(16) is being updated to cross-reference the Soil Conservation Service's (SCS) regulations for implementing the Farmland Protection Policy Act. These regulations apply to all Federal agencies. Exhibit C of this subpart contains FmHA's requirements for implementing this act and is also being amended to cross reference the SCS regulations and to make conforming changes. Since Exhibit C of this subpart was originally prepared in contemplation of the SCS regulations, the conforming changes are not substantial.

Section 1940.302(b) provides for clarification purposes a definition or listing of the environmental review documents that are required to be prepared under this subpart.

Section 1940.302(i) defines the FmHA officials who have the authority to prepare and sign the environmental review documents. Presently, the environmental review document for an action can only be signed at the office level having the approval authority for an action even though the majority of the application review and processing may be completed at a lower office level, District or County office, for example. District and County staff can only draft the environmental review document under these circumstances and it is completed and signed at the higher office level. It is proposed that the FmHA official who assembles the data and initiates the analysis for the environmental review sign it as the preparer. Any additional required reviews of the environmental review document would then be executed on a concurrence basis. This change better reflects the tasks actually being accomplished and is made in all sections and exhibits of the regulation where preparation responsibilities are discussed.

Section 1940.305(b) is being revised to delete the requirement that the State Office's Natural Resources Management Guide be considered by the State Director in deciding how FmHA's various program funds will generally be allocated across the State on a fiscal year basis. This requirement has been too complex to implement given other Agency allocation priorities which are much clearer to measure and has been of little benefit to decisionmakers.

Section 1940.307(b)(13) is added to clarify and emphasize and that it is the responsibility of the State Environmental Coordinator to coordinate the monitoring of the State Office's compliance with this regulation and to keep the State Director advised of the monitoring results.

Section 1940.309(c) is being revised to state that applicants for actions that are normally categorically excluded from the environmental assessment process but subsequently lose their exclusion need not submit Form FmHA 1940–20, "Request for Environmental Information." The present regulation is unclear on this point and some FmHA offices have been requiring the form which is unnecessary. This change is further referenced in §§ 1940.317(c) and 1940.319(c) of this subpart.

Section 1940.310(a) contains a change in the requirements for determining whether a proposed action is categorically excluded from the environmental assessment process. Presently, a normally excluded action loses its exclusion status if one of the environmentally sensitive resources listed in the section is either to be affected or is located within the project site. For an action such as a proposed loan to a farmer for operational purposes, any continued farming of important farmland would technically cause the exclusion to be lost and a Class I assessment completed. This is an unnecessary analysis since no real change would occur to the important farmland. It is proposed, therefore, that in similar situations the presence of an important resource within the project site not be enough to cause loss of an exclusion but that there must also be a proposed change in land use or some other trigger that would cause the resource to be affected. For example, if a single family house was proposed to be constructed on important farmland, the exclusion would be lost. Section 1940.317(e) has been added to explain how this change should be implemented in completing Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions."

Section 1940.310(d) differentiates the replacement of farm irrigation facilities from the installation of new such facilities by normally excluding the former from environmental assessment provided the facilities to be replaced have been used for similar irrigation purposes at least two out of the last three consecutive growing seasons.

Section 1940.310(e)(6) covering criteria for determining the environmental review requirements applicable to the proposed sale of FmHA inventory is being corrected to cover leases as well. Similar changes are made under the sections for Class I assessments, § 1940.311(d)(3), and for Class II assessments, § 1940.312(d)(6).

Section 1940.311(b) expands for proposed new water and sewer systems the definition of a Class I action. Specified limitations must first be met, as applicable, regarding the amount of effluent discharge or water withdrawal, as well as the extent of the service area. Class II assessments are presently required for all new central water and sewer systems no matter how small. State Offices have advised that small systems do not automatically warrant the more extensive Class II assessment because of their limited potential environmetnal impacts.

Section 1940.315(b) changes the requirements for when the environmental review must be completed in those FmHA financial assistance programs that use a preapplication process. The applicable review would no longer be completed during the preapplication review process but would be initiated after a complete application has been filed and be completed prior to issuance of a letter of conditions for Community Programs and prior to loan approval for all other programs. The Agency believes that application processing is unnecessarily delayed under the present system and that the proposed change better integrates the environmental review process into other application reviews. A resulting change is the elimination of Exhibit G of this subpart which identifies those programs subject to the preapplication review requirement. Exhibit L of this subpart is proposed to be redesignated and replaces the present Exhibit G.

Section 1940.318(b) clarifies under what circumstances FmHA personnel preparing environmental assessments should contact for assistance environmental protection agencies and experts.

Section 1940.324.(d) is revised to eliminate FmHA's issuing a public notice of its finding of no significant environmental impact whenever another Federal agency participating in the action has published a similar public notice which (1) was published less than 18 months from FmHA's completion of its environmental review, (2) accurately describes the proposal being considered by FmHA, and (3) was published in a manner similar to FmHA's publication requirements. This change would eliminate a duplication of time and effort in those situations where FmHA is requested to jointly fund a project with another Federal agency and that agency has already completed its environmental assessment and public notice requirements. We are presently able by regulation to adopt the assessment but must complete an independent, although redundant, public notice if a Class II action. This change would not eliminate FmHA's responsiblity to make a independent finding as to the significance of a proposal's potential environmental impacts. Whenever these impacts are found to be non-significant by FmHA, we would simply not publish this finding if a similar finding for the proposal had previously been published by a participating Federal agency.

Section 1940.331 has been rewritten to clarify the Agency's requirements regarding public notice and public participation in the environmental review process.

Section 1940.332(b) is added to provide the Administrator with the authority to waive, in an emergency circumstance, the procedural provisions of this subpart as they apply to actions not requiring an environmental impact statement. Alternative arrangements would be established on a case by case basis and would attempt to achieve the substantive provisions of this subpart. An emergency circumstance is defined as one involving an immediate or imminent danger to public health or safety. Present requirements allow for procedural flexibility only in emergency cases where the proposal requires an environmental impact statement. FmHA believes that this is overly restrictive and provisions are needed to address the much more likely eventuality of an emergency case that requires an assessment.

Exhibit D, which covers the implementation of the Endangered Species Act, is being amended to cover potential impacts to candidate species as well. These are species presently under consideration for listing. This change is being made to comply with the National Environmental Policy Act and Departmental Regulation 9500–4, Fish and Wildlife Policy, which specifies that USDA agencies will avoid actions which may cause a species to become threatened or endangered.

List of Subjects in 7 CFR Part 1940

Endangered and threatened wildlife, Environmental protection, Floodplains, National wild and scenic river system, Natural resources, Recreation, Water supply.

Because the proposed changes affect many sections of the regulations, particularly in terms of cross references, the entire regulations except for its exhibits is reprinted below. Exhibit C, which is the most affected exhibit, is

also reprinted. For other exhibits containing changes, only the amended language is provided.

Accordingly, FmHA proposes to amend Subpart G of Part 1940, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1940—GENERAL

1. The authority citation for Part 1940 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Sections 1940.301 through 1940.336 and 1940.350 are revised to read as follows:

Subpart G—Environmental Program

§ 1940.301 Purpose.

(a) This subpart contains the major environmental policies of the Farmers Home Administration (FmHA). It also provides the procedures and guidelines for preparing the environmental impact analyses required for a series of Federal laws, regulations, and Executive orders within one environmental document. The timing and use of this environmental document within the FmHA decision-making process is also outlined.

(b) This subpart is intended to be consistent with the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA), 40 CFR Parts 1500 through 1508. CEQ's regulations will not be repeated in this subpart except when essential for clarification of important procedural or substantive points. Otherwise, citations to applicable sections of the regulations will be provided. The CEQ regulations will be available at all FmHA offices.

(c) This subpart is designed to integrate the requirements of NEPA with other planning and environmental review procedures required by law, or by Agency practice, so that all such procedures run concurrently rather than consecutively. The environmental document, which results from the implementation of this Subpart, provides on a project basis a single reference point for the Agency's compliance and/or implementation of the following requirements and policies:

(1) The National Environmental Policy Act, 42 U.S.C. 4321.

(2) Safe Drinking Water Act—section 1424(e), 42 U.S.C. 300h.

(3) Endangered Species Act, 16 U.S.C. 1531.

(4) Wild and Scenic Rivers Act, 16 U.S.C. 1271.

(5) The National Historic Preservation Act, 16 U.S.C. 470 (See Subpart F of Part 1901 of this chapter for more specific implementation procedures.)

(6) Archaeological and Historic Preservation Act, 16 U.S.C. 469 (See Subpart F of Part 1901 of this chapter for more specific implementation procedures.)

(7) Coast Zone Management Act—section 307(c)(1) and (2), 16 U.S.C. 1456.

(8) Farmland Protection Policy Act, Subtitle I, Public Law 97–98.

(9) Coastal Barrier Resources Act, Public Law 97–348.

(10) Executive Order 11593, Protection and Enhancement of the Cultural Environment (See Subpart F of Part 1901 of this chapter for more specific implementation procedures.)

(11) Executive Order 11514, Protection and Enhancement of Environmental Quality.

(12) Executive Order 11988, Floodplain Management.

(13) Executive Order 11990, Protection of Wetlands.

(14) Title 7, Part 1b and 1c, Code of Federal Regulations, Department of Agriculture's National Environmental Policy Act; Final Policies and Procedures.

(15) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture's Enhancement, Protection, and Management of the Cultural Environment (See Subpart F of Part 1901 of this chapter for more specific implementation procedures.)

(16) Title 7, Part 658, Code of Federal Regulations, Department of Agriculture, Soil Conservation Service, Farmland Protection Policy.

(17) Departmental Regulation 9500–3, Land Use Policy (See Exhibit A of this subpart.)

(18) Departmental Regulation 9500–4, Fish and Wildlife Policy.

(d) The primary objectives of this subpart are for the Agency to make better decisions by taking into account potential environmental impacts of proposed projects and by working with FmHA applicants, other Federal agencies, Indian tribes, State and local governments, and interested citizens and organizations in order to formulate actions that advance the program goals in a manner that will protect, enhance and restore environmental quality. To accomplish these objectives, the identifications of potentially significant impacts on the human environment is mandated to occur early in the Agency's planning and decisionmaking processes. Important decision points are identified. The completion of the environmental review process is coordinated with these decision points, and this review must be completed prior to the Agency's first major decision on whether or not to participate in the proposal. This early availability of the results of the environmental review process is intended to ensure that Agency decisions are based on an understanding of their environmental consequence, as well as the consequences of alternative courses of action.

(e) Reducing delays, duplication of effort, and superfluous analyses are provided for in this subpart. FmHA environmental documents are to be supported by accurate analyses and will concentrate on the issues that are timely and relevant to the action in question, rather than amassing needless detail. Such documents and their preparation and review will be coordinated with other Federal or State agencies jointly participating in proposed actions or related actions, in order to avoid duplication of effort, and to achieve a coordinated and timely response.

(f) Public involvement is desirable, and to facilitate public involvement, environmental documents will be available to interested citizens as early in the decisionmaking process as possible and before decisions are made. Provisions are included for citizens or interested parties to express their views and any concerns.

(g) The FmHA officials responsible for the environmental review process are identified.

§ 1940.302 Definitions.

Following is a list of definitions that apply to the implementation of this subpart. Please note that § 1940.301(b) of this subpart refers to the Council on Environmental Quality's Regulations for Impementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500 through 1508. Consequently, the definitions contained in Part 1508 of the Council's regulations apply to this subpart, as well as those listed below.

(a) *Emergency circumstance.* One involving an immediate or imminent danger to public health or safety.

(b) *Environmental review documents.* The documents required by this subpart for the purpose of documenting FmHA's compliance with the environmental laws and regulations applicable to the FmHA actions covered in this subpart. These documents include:

(1) Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions,"

(2) Form FmHA 1940–21, "Environmental Assessment for Class I Action,"

(3) Environmental Assessment for Class II Actions (Exhibit H of this subpart), and

(4) Environmental Impact Statements (EIS).

(c) *Flood or flooding.* A general and temporary condition of partial or complete inundation of land areas, from the overflow of inland and/or tidal waters, and/or the rapid accumulation or runoff of surface waters from any source. Two important classifications of floods are as follows.

(1) A one-percent chance flood or base flood—A flood of a magnitude that occurs once every 100 years on the average. Within any one-year period there is one chance in 100 of the occurrence of such a flood. Most importantly, however, the cumulative risk of flooding increases with time. Statistically, there is about one chance in five that a flood of this magnitude will occur within a 20-year period, the length of time commonly defined as the useful life of a facility. Over a 30-year period, the life of a typical mortgage, the probability of such a flood occurring increases to greater than one chance in four.

(2) A 0.2-percent chance flood—A flood of a magnitude that occurs once every 500 years on the average. (Within any one-year period there is one chance in 500 of the occurrence of such a flood.) As with the one-percent chance flood, the cumulative risk of this flood occuring also increases with time.

(d) *Floodplains.* Lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands. At a minimum, floodplains consist of those areas subject to one percent or greater chance of flooding in any given year. The term floodplain with be taken to mean the base floodplain, unless the action involves a critical action, in which case the critical action floodplain in the minimum floodplain of concern.

(1) Base floodplain (or 100-year floodplain)—The area subject to inumdation from a flood of a magnitude that occurs once every 100 years on the average (the flood having a one-percent chance of being equalled or exceeded in any given year).

(2) Critical action floodplain (or 500-year floodplain)—The area subject to inumdation from a flood of a magnitude that occurs once every 500 years on the average (the flood having 0.2-percent chance of being equalled or exceeded in any given year).

(e) *Indirect impacts.* Those reasonably foreseeable environmental impacts that result from the additional public facility, residential, commercial, or industrial development or growth that a federally financed project may cause, induce or accommodate. Consequently, indirect impacts often occur later in time than the construction of the Federal project and can be removed in distance from the construction site. For example, a water transmission line may be designed to serve additional residential development. The environmental impacts of the residential development represent an indirect impact of the federally funded water line. Those indirect impacts which deserve the greatest consideration include changes in the paterns of land use, population density or growth rate, and the corresponding changes to air and water quality and other natural systems.

(f) *Mitigation measure.* A measure(s) included in a project or application for the purpose of avoiding, minimizing, reducing or rectifying identified, adverse environmental impacts. Examples of such measures include:

(1) The deletion, relocation, redesign or other modifications of the projects's elements;

(2) The dedication to open space of environmentally sensitive areas of the project site, which would otherwise be adversely affected by the action or its indirect impacts;

(3) Soil erosion and sedimentation plans to control runoff during land-distrubing activities;

(4) The establishment of vegetative buffer zones, between project sites and adjacent land uses;

(5) Protective measures recommended by environmental agencies having jurisdiction or special expertise regarding the project's impacts;

(6) Storm water management plans to control potential downstream flooding effects that would result from a project;

(7) Zoning; and

(8) Reuse of existing facilities as opposed to new construction.

(g) *Non-action alternative.* The alternative of not approving an application for financial assistance, a subdivision feasibility analysis, or an Agency proposal.

(h) *Practicable alternative.* An alternative that is capable of attainment within the confines of relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration and those constraints imposed by environmental, economic, legal, social and technological parameters. This test, however, is not limited by the temporary unavailability of sufficient financial resources to implement and alternative. That is alternatives cannot be rejected solely on the basis of moderately increased costs. The range of alternatives that must be analyzed to determine if a practicable alternative eixsts includes the following three categories of alternatives:

(1) Alternative project sites or designs,

(2) Alternative projects with similar benefits as the proposed action, and

(3) The no-action alternative.

(i) *Preparer of environmental review documents.* The FmHA official who is responsible for reviewing the potential environmental impacts of the proposed action and for completing the appropriate environmental review document. Under the circumstances indicated, the following Agency positions and divisions will act as the preparer of the environmental review documents covered by this subpart.

(1) County Office—When the approval official for the action under review is located at the County Office level, that official will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and Class II assessments.

(2) District Office—When the approval official for the action under review is located at the District Office level, that official will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and Class II assessments or may delegate this responsibility to either—

(i) The District Office staff members having primary responsibility for assembling the associated pre-application, application or other case materials, analyzing the materials and developing recommendations for the approval official, or,

(ii) A County Office staff member having the same responsibilities as the District Office member, if the action is initiated at the County Office level.

(3) State Office Program Chief—For actions approved within the State Office, the Chief will prepare, as required, Environmental Checklist for Categorical Exclusions and Class I and II assessements or may delegate this responsibility to either—

(i) The appropriate State Office Loan Specialist, if not the State Environmental Coordinator (SEC),

(ii) An architect or engineer or the Chief's staff who is not the SEC, or

(iii) A District of County Office staff member located within the office in which the action is initiated and having the responsibilities outline in paragraph (i)(2)(i) of this section.

(4) State Environmental Coordinator—EIS's for actions within the approval authority of County Supervisors, District Directors, and State Office officials.

(5) Assistant Administrators for Programs—Checklists, assessments, and

EIS's for all actions initiated within their program office.

(6) Program Support Staff—Checklists, assessments, and EIS's that the Deputy Administrator for Program Operations requests be done.

(j) *Water resource project.* Includes any type of construction which would result in any change in the free-flowing characteristics of a particular river to include physical, chemical, and biological characteristics of the waterway. This definition encompasses construction projects within and along the banks of rivers, as well as projects involving withdrawals from, and discharges into such rivers. Projects which require Corps of Engineers dredge and fill permits are also water resource projects.

§ 1940.303 General policy.

(a) FmHA will consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes.

(b) In assessing the potential environmental impacts of its actions, FmHA will consult early with appropriate Federal, State, and local agencies and other organizations to provide decision-makers with both the technical and human aspects of environmental planning.

(c) When adverse environmental impacts are identified, either direct or indirect, an examination will be made of alternative courses of action, including their potential environmental impacts. The objective of the environmental review will be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal will also be considered particularly with respect to the need for the proposal.

(d) If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts will be included in the proposal.

(e) The performance of environmental reviews and the consideration of alternatives will be initiated as early as possible in the FmHA application review process so that the Agency will be in the most flexible and objective position to deal with these considerations.

§ 1940.304 Special policy.

(a) *Land use.* (1) FmHA recognizes that its specific mission of assisting rural areas, composed of farms and rural towns, goes hand-in-hand with protecting the environmental resources upon which these systems are dependent. Basic resources necessary to both farm and rural settlements include important farmlands and forestlands, prime rangelands, wetlands, and floodplains. The definitions of these areas are contained in the Appendix to Departmental Regulation 9500–3, Land Use Policy, which is included as Exhibit A of this subpart. For assistance in locating and defining floodplains and wetlands, the locations and telephone numbers of the Federal Emergency Management Administration's regional offices have been included as Exhibit J of this subpart, and similar information for the U.S. Fish and Wildlife Service's Wetland Coordinators has been included as Exhibit K of this subpart. Given the importance of these resources, as emphasized in the Departmental Regulation, Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands," it is FmHA's policy not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that—

(i) There is no practicable alternative to the proposed action,

(ii) The proposal conforms to the planning criteria identified in paragraph (a)(2) of this section, and

(iii) The proposal includes all practicable measures for reducing the adverse impacts and the amount of conversion/encroachment.

(2) It is also recognized that unless carefully reviewed, some proposals designed to serve the needs of rural communities can adversely affect the existing economic base and settlement patterns of the community, as well as create development pressures on land and environmental resources essential to farm economies. An example of such a proposal might be the extension of utilities and other types of infrastructure beyond a community's existing settlement pattern and into important farmlands for the purpose of commercial or residential expansion, even though there is available space within the existing settlement pattern for such expansion. Not only may the loss of important farmlands unnecessarily result, but the community may be faced with the economic costs of providing public services to outlying areas, as well as the deterioration of its central business or commercial area; the latter may not be able to compete with the newer, outlying commercial establishments. These results are undesirable, and to avoid their occurrence, projects designed to meet rural community needs (i.e., residential, industrial, commercial, and public facilities) will not be approved unless the following conditions are met.

(i) The project is planned and sited in a manner consistent with the policies of this section, the Farmland Protection Policy Act, and Departmental Regulation 9500–3 (Exhibit A of this subpart).

(ii) The project is not inconsistent with an existing comprehensive and enforceable plan that guides growth and reflects a realistic strategy for protecting natural resources, and the project is compatible, to the extent practicable, with State, unit of local government, and private programs and policies to protect farmland. (If no such plan or policies exist, there is no FmHA requirement that they either be prepared and adopted, as further specified in paragraph (a)(3) of this section.)

(iii) The project will encourage long-term, economically viable public investment by fostering or promoting development patterns that ensure compact community development, that is, development that is limited to serving existing settlement patterns or is located in existing settlement patterns, e.g., the rehabilitation and renovation of existing structures, systems and neighborhood; infilling of development; the provision of a range of moderate-to-high residential densities appropriate to local and regional needs. When these development patterns or types are not practicable, the development must be contiguous with the existing settlement pattern and provide for a range of moderate-to-high residential densities appropriate to local and regional needs. It is recognized that some FmHA Community Programs projects are designed to serve rural residents, such as rural water and waste disposal systems and, therefore, cannot be limited in service area to those areas contiguous with existing settlement patterns. These types of projects will be designed to primarily serve existing structures and rural residents in noncontiguous areas. Any additional capacity within the system will be limited to meet reasonable growth needs, and, to the extent practicable, be designed to meet such needs within existing settlements and areas contiguous to them.

(3) The conditions specified in paragraph (a)(2) of this section should not be construed as advocating excessive densities, congestion, or loss of open space amenities within rural communities. Desirable living conditions can be obtained under these objectives, along with economic and social benefits

for the community and the surrounding farm operations. Additionally, these conditions should not be construed as requiring localities to develop plans which contain the conditions. In any instance in which these planning conditions or criteria do not exist within the project area, project reviews will not be postponed until the criteria are adopted. Rather, projects will be reviewed and funding decisions made in light of a project's consistency with the contents of this Subpart (excluding paragraph (a)(2)(ii) of this section, which would not be applicable).

(b) *Endangered species.* FmHA will not authorize, funds, or carryout any proposal or project that is likely to—

(1) Jeopardize the continued existence of any plant or wildlife species listed by the Secretary of Interior or Commerce as endangered or threatened; or

(2) Destroy or adversely modify the habitats of listed species when such habitats have been determined critical to the species' existence by the Secretary of Interior or Commerce, unless FmHA has been granted an exemption for such proposal by the Endangered Species Committee pursuant to paragraph (h) of section 7 of the Endangered Species Act.

(c) *Wild and scenic rivers.* FmHA will not provide financial assistance or plan approval for any water resource project that would have a direct and adverse effect on the values for which a river has been either included in the National Wild and Scenic Rivers System or is designated for potential addition. Additionally, FmHA will not approve or assist developments (commercial, industrial, residential, farming or community facilities) located below or above a wild, scenic or recreational river area, or on any stream tributary thereto which will invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area.

(d) *Historic and cultural properties.* As part of the environmental review process, FmHA will identify any properties that are listed in, or may be eligible for, listing in the National Regiser of Historic Places and are located within the project's area of potential environmental impacts. Consultations will be undertaken with State Historic Preservation Officers and the Advisory Council on Historic Preservation, through the implementation of Subpart F of Part 1901 of this Chapter, in order to determine the most appropriate course of action for protecting such identified properties or mitigating potential adverse impacts to them.

(e) *Coastal barriers.* Under the requirements of the Coastal Barrier Resources Act, FmHA will not provide financial assistance for any activity to be located within the Coastal Barrier Resources System unless —

(1) Such activity meets the criteria for an exception, as defined in section 6 of the Act, and

(2) Consultation regarding the activity has been completed with the Secretary of the Interior.

(f) *Water and energy conservation.* FmHA will encourage the conservation of water and energy in the development of its programs and policies and will encourage applicants to incorporate all economically feasible water and energy-saving features and designs within their proposals.

(g) *Intergovernmental initiatives on important land resources.* On a broader scale, FmHA will advocate, in cooperation with other USDA agencies (through the USDA State-level committee system), the retention of important farmlands and forestlands, prime rangeland, wetlands and floodplains whenever proposed conversions to other uses—

(1) Are caused or encouraged by action or programs of a Federal Agency, or

(2) Require licensing or approval by a Federal Agency,

Unless other needs clearly override the benefits derived from retention of such lands.

§ 1940.305 Policy implementation.

(a) *Environmental impact analysis.* The implementation of the environmental impact analysis requirements described in this subpart serves as the primary mechanism for FmHA—

(1) Incorporating environmental quality considerations into FmHA program and decision-making processes,

(2) Obtaining the views of the public and government agencies on potential environmental impacts associated with FmHA projects, and

(3) Using all practicable means to avoid or to minimize any possible adverse environmental effects of FmHA actions.

(b) *Natural resource management.* The State Director will develop a natural resource management guide. This guide will serve as an essential mechanism for implementing § 1940.304 of this subpart; and, therefore, the guide must be consistent with and reflect the objectives and policies contained in § 1940.304 of this subpart. At the same time, however, it must be tailored to take into account important State, regional, and local natural resource management objectives. The guide will be issued as a State Supplement for prior approval. The basic content, purposes, and uses of the guide are enumerated in Exhibit B of this subpart and can be summarized as follows:

(1) The guide will serve as a mechanism for assembling an inventory of the locations within the State of those natural resources, land uses, and environmental factors that have been specified by Federal, State and local authorities as deserving some degree of protection or special consideration;

(2) The guide will summarize the various standards or types of Federal, State, or local protection that apply to the natural resources, land uses, and environmental factors listed in the inventory; and

(3) Applications for individual projects must be reviewed for consistency with the guide.

(c) *Intergovernmental initiatives.* When commenting on proposed Federal actions subject to environmental impact statements, FmHA commentors will focus on the consistency of these actions with the appropriate State natural resource management guide. A similar focus or element will be addressed in FmHA's review of the Environmental Protection Agency's 201 Wastewater Management Plans.

(d) *Farmland Protection Policy Act and Departmental Regulation 9500–3, Land Use Policy.* The natural resource management guide serves as a tool for implementing the requirements of the Act and the Departmental Regulation at the broad level of implementing the Agency's programs at the State level. These requirements must also be followed in the review of applications for financial assistance or subdivision approval, as well as the disposal of real property. FmHA's implementation procedures for the projects review process are contained in Exhibit C of this subpart.

(e) *Endangered species.* FmHA will implement the consultation procedures required under section 7 of the Endangered Species Act as specified in 50 CFR 402. It is important to note that these consultation procedures apply to the disposal of real property and all FmHA applications for financial assistance and subdivision approval, including those applicants which are exempt from environmental assessments. FmHA's implementation procedures are contained in Exhibit D of this subpart.

(f) *Wild and scenic rivers.* Each application for financial assistance or subdivision approval and the proposed disposal of real property will be

reviewed to determine if it will affect a river or portion of it, which is either included in the National Wild and Scenic Rivers System, designated for potential addition to the system, or identified in the Nationwide Inventory prepared by the National Park Service (NPS) in the Department of the Interior (DOI). FmHA's procedures for completing this review are contained in Exhibit E of this subpart.

(g) *Historic and cultural properties.* (1) As part of the environmental review process, FmHA will identify any properties that are listed in or may be eligible for listing in the National Register of Historic Places, and located within the area of potential environmental impact. Identification will consist of consulting the published lists of the National Register and formally contacting and seeking the comments of the appropriate State Historic Preservation Officer (SHPO). Since it is not always possible from the consultation with the SHPO to determine whether historic and cultural properties are present within the project's area of environmental impact, it may be necessary for FmHA to consult public records and other individuals and organizations, such as university archaeologists, local historical societies, etc. These latter discussions should take place before initiating a detailed site survey since they may provide reliable information that obviates the need for a survey. However, whenever insufficient information exists to document the presence or absence of potentially eligible National Register properties and where the potential for previously unidentified properties is recognized by FmHA, the SHPO, or other interested parties, FmHA will conduct the necessary investigations to determine if such properties are present within the area of potential environmental impact. FmHA will involve the SHPO in the planning and formulation of any historic, cultural, architectural or archaeological testing, studies or surveys conducted to investigate the presence of such properties and will utilize persons with appropriate knowledge and experience.

(2) If the information obtained as a result of the consultation and investigations conducted by FmHA indicates the presence of historic and cultural properties within the area of potential environmental impact that, in the opinion of the SHPO or FmHA, appear to meet the National Register Criteria (36 CFR 1202.6), FmHA will request a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR Part 1204. Consultations will be initiated with the SHPO and the Advisory Council on Historic Preservation in accordance with 36 CFR Part 800, through the implementation of Subpart F of Part 1901 of this chapter, to determine the most appropriate course of action to protect all National Register and eligible properties within the area of potential environmental impact.

(3) Further instructions detailing the procedures to be followed in considering and protecting historic and cultural properties and the responsible Agency officials are contained in Subpart F of Part 1901 of this Chapter. These procedures will be followed whenever a proposal, considered by FmHA, has the potential to affect National Register or eligible properties.

(h) *Coastal barriers.* In those States having coastal barriers within the Coastal Barrier Resources System, each application for financial assistance or subdivision approval, as well as the proposed disposal of real property, will be reviewed to determine if it would be located within the system, and, if so, whether the action must be denied on this basis or meets the Act's criteria for an exception. To accomplish the review, all affected State, District and County Offices will maintain a current set of maps, as issued by DOI, which depict those coastal barriers within their jurisdiction that have been included in the system. FmHA's implementation procedures for accomplishing this review requirement and for consulting as necessary with DOI are contained in Exhibit F of This subpart. The exceptions to the restrictions of the Coastal Barrier Resources Act are contained in Exhibit G of this subpart.

(i) *Water and energy conservation.* Water and energy conservation measures will be considered at both the program and project level in a manner consistent with program regulations.

§ 1940.306 Environmental responsibilities within the National Office

(a) *Administrator.* The Administrator of FmHA has the direct responsibility for Agency compliance with all environmental laws, Executive orders, and regulations that apply to FmHA's program and administrative actions. As such, the Administrator ensures that this responsibility is adequately delegated to Agency staff and remains informed on the general status of Agency compliance, as well as the need for any necessary improvements. The Administrator is also responsible for ensuring that the Agency's manpower and financial needs for accomplishing adequate compliance with this subpart are reflected and documented in budget requests for departmental consideration.

(b) *Deputy Administrator Program Operations.* (1) The Deputy Administrator for Program Operations has the delegated overall Agency responsibility for developing and implementing environmental policies and compliance procedures, monitoring their effectiveness, and advising the Administrator on the status of compliance, to include recommendations for any necessary changes in this subpart. The incumbent is also responsible for developing and documenting, as part of the Agency's budget formulation process, the manpower and financial needs necessary to implement this subpart.

(2) The specific responsibilities of the Deputy Administrator Program Operations are as follows:

(i) Provide for the Agency an interdisciplinary approach to environmental impact analysis and problem resolution, as required by the CEQ regulations;

(ii) Provide the leadership and technical expertise for the implementation of the Agency's environmental policies with special emphasis being placed on those policies relating to natural resource management, energy conservation, and orderly community development;

(iii) Coordinate the implementation of this subpart with affected program offices;

(iv) Provide policy direction and advice on the implementation of this subpart to Agency staff, particularly to SECs and technical support personnel within State Offices;

(v) Consult and coordinate, as needed or upon request, with the Department's interagency committees dealing with environmental, land use, and historic preservation matters;

(vi) Monitor the Agency's record in complying with this subpart;

(vii) Provide training programs and materials for the Agency staff assigned the functions identified in this subpart;

(viii) Review, as necessary, applications for funding assistance, proposed policies and regulations, and recommend their approval, disapproval, or modification after analyzing and considering their anticipated adverse environmental impacts, their benefits, and their consistency with the requirements of this subpart;

(ix) Develop and direct Agency procedures for complying with environmental legislation, Executive orders, and regulations, including, but not limited to, those listed in § 1940.301(c) of this subpart;

(x) Maintain a position identified as the Senior Environmental Specialist (hereafter called the Environmental Specialist), who will serve as the responsible Agency official under the National Environmental Policy Act and the National Historic Preservation Act, maintain liaison on environmental matters with interested public groups and Federal agencies, and serve as the focal point for developing and coordinating the Agency's procedures for the requirements listed in § 1940.301(c) of this subpart; and

(xi) Review and evaluate legislative and administrative proposals in terms of their environmental impact.

(c) *Assistant Administrators for Programs.* The Assistant Administrators for Programs will:

(1) Ensure, as necessary, that environmental assessments and EISs for proposed program regulations are prepared by their staff;

(2) Ensure that all proposed actions that fall under the requirements of this subpart, and that are submitted to the National Office for approval or concurrence, contain adequate analyses and documentation of their potential environmental impacts (Transfer of program funds from National Office to State Office control to enable the State Office to approve an application is not considered to be National Office approval of or concurrence in an application);

(3) Consider and include, in the development of program regulations, feasible policies and mechanisms that promote program goals in a manner that either enhances environmental quality or reduces unnecessary adverse environmental impacts; and

(4) Designate one or more staff members to serve as a program environmental coordinator, having generally the same duties and responsibilities within the program office as the SEC has within the State Office (See § 1940.307(b) of this subpart).

§ 1940.307 Environmental responsibilities within the State Office.

(a) *State Director.* The State Director will:

(1) Serve as the responsible FmHA official at the State Office level for ensuring compliance with the requirements of this Subpart; and

(2) Appoint one individual to serve as the SEC. Thereafter, the SEC will report directly to the State Director on the environmental matters contained in this Subpart.

(b) *State Environmental Coordinator (SEC).* The SEC will:

(1) Act as advisor to the State Director on environmental matters and coordinate the requirements of this subpart;

(2) Review those Agency actions which are not categorically excluded from this subpart (see § 1940.311 and § 1940.312) and which require the approval and/or clearance of the State Office and recommend to the approving official either project approval, disapproval, or modification after analyzing and considering the

(i) Anticipated adverse environmental impacts,

(ii) The anticipated benefits, and

(iii) The action's consistency with this subpart's requirements;

(3) Represent the State Director at conferences and meetings dealing with environmental matters of a State Office nature;

(4) Maintain liaison on State Office environmental matters with interested public groups and local, State, and other Federal agencies;

(5) Serve as the State Director's alternate on State-level USDA committees dealing with environmental, land use and historic preservation matters;

(6) Solicit, whenever necessary, the expert advice and assistance of other professional staff members within the State Office in order to adequately implement this subpart;

(7) Provide technical assistance as needed on a project-by-project basis to State, District, and County Office staffs;

(8) Develop controls for avoiding or mitigating adverse environmental impacts and monitor their implementation;

(9) Provide assistance in resolving post-approval environmental matters at the State Office level;

(10) Maintain records for those actions required by this subpart;

(11) Coordinate for the State Director the development of the State Office natural resources management guide;

(12) Provide direction and training to State, District, and County Office staffs on the requirements of this subpart; and

(13) Coordinate for the State Director the monitoring of the State Office's compliance with this subpart and keep the State Director advised of the results of the monitoring process.

(c) *Program Chiefs.* State Office Program Chiefs will:

(1) Be responsible for the adequacy of the environmental impact reviews required by this subpart for all program actions to be approved at the State Office level or concurred in at that level;

(2) Coordinate the above reviews as early as possible with the SEC, so that the latter can assist in addressing the resolution of any unresolved or difficult environmental issues in a timely manner; and

(3) Incorporate into projects and actions measures to avoid or reduce potential adverse environmental impacts identified in environmental reviews.

§ 1940.308 Environmental responsibilities at the District and County Office levels.

(a) The District Director will be responsible for carrying out the actions required by this subpart to be completed at the District Office level.

(b) The County Supervisor will be responsible for carrying out the actions required by this subpart to be completed at the County Office level.

(c) In discussing FmHA assistance programs with potential applicants, District Directors and County Supervisors will inform them of the Agency's environmental requirements, as well as the environmental information needs and responsibilities that FmHA applicants are expected to address. (See § 1940.309 of this subpart.)

§ 1940.309 Responsibilities of the prospective applicant.

(a) FmHA expects prospective applicants (*and in the case of the loan guarantee programs, prospective borrowers and transferees*) to consider the potential environmental impacts of their requests at the earliest planning stages and to develop proposals that minimize the potential to adversely impact the environment. Prospective applicants should contact County Supervisors or District Directors, as appropriate, to determine FmHA's environmental requirements as soon as possible after they decide to pursue FmHA financial assistance.

(b) As specified in paragraph (c) of this section, applicants for FmHA assistance will be required to provide information necessary to FmHA to evaluate their proposal's potential environmental impacts and alternatives to them. For example, the applicant will be required to provide a complete description of the project elements and the proposed site(s) to include location maps, topographic maps, and photographs when needed. The applicant will also be required to provide data on any expected gaseous, liquid and solid wastes to be produced and all permits and/or correspondence issued by the appropriate local, State, and Federal agencies which regulate such disposal practices.

(c) Form FmHA 1940–20, "request for Environmental Information," will be used for obtaining environmental information from applicants whose

proposals require an environmental assessment under the requirements of this subpart. These same applicants must notify the appropriate State Historic Preservation Officer of the filing of the application and provide a detailed project description as specified in Item 2 of Form FmHA 1940–20 and the FMI. If the applicant's proposal meets the definition of a Class I action as defined in § 1940.312 of this subpart, all of Form FmHA 1940–20 must be completed. If the applicant's proposal meets the definition of a Class I action as defined in § 1940.311 of this subpart, the entire form need not be completed, but just the face of the form and categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI. As an exception to the foregoing statement, an applicant for an action that is normally categorically excluded but requires a Class I assessment for any of the reasons stated in § 1940.317(e) of this subpart is not required to complete Form FmHA 1940–20. Additionally, for Class I actions within the Farm Programs, a site visit by the FmHA official completing the environmental assessment obviates the need for the applicant to complete any of the form, and the adoption by FmHA of a Soil Conservation Service (SCS) environmental assessment or evaluation for the action obviates the need to complete the form for either a Class I or Class II action.

(d) Applicants will ensure that all required materials are current, sufficiently detailed and complete, and are submitted directly to the FmHA office processing the application. Incomplete materials or delayed submittals may seriously jeopardize consideration or postponement of a proposed action by FmHA.

(e) During the period of application review and processing, applicants will not take any actions with respect to their proposed undertakings which are the subject of the application and which would have an adverse impact on the environment or limit the range of alternatives. This requirement does not preclude development by applicants of preliminary plans or designs or performance of other work necessary to support an application for Federal, State, or local permits or assistance. However, the development of detailed plans and specifications is discouraged when the costs involved inhibit the realistic consideration of alternative proposals.

(f) Applicants are required to provide public notification and to fully cooperate in holding public information meetings as described in §§ 1940.318(e), 1940.320(c) and (g), and 1940.331(b) and (c) of this subpart.

(g) Any applicant that is directly and adversely affected by an administrative decision made by FmHA under this subpart may appeal that decision under the provisions of Subpart B of Part 1900 of this chapter.

§ 1940.310 Categorical exclusions from National Environmental Policy Act (NEPA) reviews.

(a) *General guidelines.* The following actions have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They will not be subject to environmental assessments or impact statements. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from either the policy considerations contained in §§ 1940.303 through 1940.305 of this subpart or from compliance with other applicable local, State, or Federal environmental laws. Also, the actions preceded by an asterisk (*) are not excluded from further review depending upon whether in some cases they would be located within, or in other cases, potentially affected—

(1) A floodplain,

(2) A wetland,

(3) Important farmlands, or prime forestlands or rangelands,

(4) A listed species or critical habitat for an endangered species,

(5) A property that is listed on or may be eligible for listing on the National Register of Historic Places,

(6) An area within an approved State coastal zone management program,

(7) A coastal barrier or a portion of a barrier within the Coastal Barrier Resources System,

(8) A river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System, or

(9) A sole source aquifer recharge area.

whether location within one of these resource areas is sufficient to require a further review or a potential impact to one of them must also be identified to require a review is determined by FmHA's completion of Form FmHA 1940–22 in accordance with the FMI and § 1940.317 of this subpart. When the categorical exclusion classification is lost, as specified in § 1940.317 of this subpart, the action must be reviewed under the requirements of paragraph (g) of that section. This requirement serves to implement Section 1508.4 of the CEQ regulations which requires Federal agencies to detect extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Further guidance on the use of these exclusions is contained in § 1940.317 of this subpart.

(b) *Housing assistance.* *(1) The provision of financial assistance for construction of a single family dwelling or a multi-family project serving no more than four families, i.e. units;

*(2) The approval of an individual building lot that is located on a scattered site and either not part of a subdivision or within a subdivision not requiring FmHA's approval;

*(3) Rehabilitation and renovation of any existing housing units, with no expansion in the number of units;

(4) Self-Help Technical Assistance Grants;

*(5) The approval of a subdivision that consists of four or fewer lots and is not part of, or associated with, building lots or subdivisions;

(6) Technical Supervisory Assistance Loans and Grants;

(7) Weatherization of any existing housing unit(s), unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located either within the Coastal Barrier Resources System or in a listed or potentially eligible historic district, in which case the application will require a Class I assessment as specified in §1940.317(g) of this subpart;

(8) The financing of housing construction or the approval of lots in a previously approved FmHA subdivision provided that (i) the action is consistent with all previously adopted stipulations for the multi-family housing project or subdivision, and (ii) the FmHA environmental impact review that was previously completed for the original application is still current with respect to applicable environmental requirements and conditions present at the site, and it assessed the lots or expansion for which approval is being requested;

(9) The purchase of any existing, non-FmHA owned housing unit(s), unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located either within a 100-year floodplain, the Coastal Barrier Resources System, or in a listed or potentially eligible historic district, in which case the application will require a Class I assessment as specified in §1940.317(g) of this subpart; and

(10) Appraisals of nonfarm tracts and small farms for rural housing loans.

(c) *Community and business programs.* *(1) Financial assistance directed to existing businesses, facilities, and/or structures that does

not involve new construction or large increases in employment, and does not result in the increased production of gaseous, liquid, or solid wastes, or a change in the type or content of such wastes;

*(2) Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities, structures or businesses, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of utilities such as water or sewer lines and appurtenances, reconstruction of curbs and sidewalks, street repaving, and building modifications, renovations, and improvements);

(3) Project management actions relating to invitation for bids, contract award, and the actual physical commencement of construction activities;

(4) Projects that solely involve the purchase and installation of office equipment, public safety equipment, or motor vehicles; and

(5) Amendments to approved projects meeting the criteria of paragraph (e)(2) of this section.

(d) *Farm programs. (1)* Financial assistance for the purchase of an existing farm, or an enlargement to one, provided no shifts in land use are proposed beyond the limits stated in paragraphs (d) (10) and (11) of this section;

(2) Financial assistance for the purchase of livestock and essential farm equipment, including crop storing and drying equipment, provided such equipment is not to be used to accommodate shifts in land use beyond the limits stated in paragraphs (d) (10) and (11) of this section;

(3) Financial assistance for —

(i) The payment of annual operating expenses, which does not cover activities specifically addressed in this section or §§ 1940.311 or 1940.312 of this subpart;

(ii) Family living expenses, and

(iii) Refinancing debts;

*(4) Financial assistance for the construction of essential farm dwellings and service buildings of modest design and cost, as well as repairs and improvements to them;

(5) Financial assistance for onsite water supply facilities to serve a farm dwelling, farm buildings, and livestock needs;

(6) Financial assistance for the installation or enlargement of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres, provided that neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in § 1940.312 of this subpart. Potential effects to an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I assessment as specified in § 1940.317(g) of this subpart.

(7) Financial assistance that solely involves the replacement or restoration of irrigation facilities, to include those facilities described in paragraph (d)(6) of this section, with minimal change in use, size, capacity, or location from the original facility(s) provided that neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in § 1940.312 of this subpart. Potential effects to a historic property or the Wild and Scenic Rivers System require that a Class I assessment be completed as specified in § 1940.317(g) of this subpart. Also, to qualify for this exclusion, the facilities to be replaced or restored must have been used for similar irrigation purposes at least two out of the last three consective growing seasons. Otherwise, the action will be viewed as an installation of irrigation facilities.

(8) Financial assistance for the development of farm ponds or lakes of no more than 5 acres in size, provided that, neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application will fall under Class II as defined in § 1940.312 of this subpart. Potential effects to an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I assessment as specified in § 1940.317(g) of this subpart;

(9) Financial assistance for the conversion of—

(i) Land in agricultural production to pastures or forests, or

(ii) Pastures or forests;

*(10) Financial assistance for land-clearing operations of no more than 15 acres, and financial assistance for any amount of land involved in tree harvesting conducted on a sustained yield basis and according to a Federal, State or other governmental unit approved forestry management and marketing plan; and

(11) Financial assistance for the conversion of no more than 160 acres of pasture to agricultural production, provided that in a conversion to agricultural production no wetlands are affected, in which case the application will fall under Class II as defined in § 1940.312 of this subpart.

(e) *General exclusions.* (1) The award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to approved projects, including the provision of additional financial assistance or revisions to their approval documents, that do not alter the purpose, operation, location, or design of the project as orginally approved;

(3) The issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial assistance programs;

(4) Procurement activities for goods and services, routine facility operations, personnel actions, and other such management activities related to the operation of the Agency;

(5) Reduction in force or employee transfers resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar circumstances; and

*(6) The lease or disposal or real property by FmHA whenever the transaction is either not controversial for environmental reasons or will not result in a change in use of the real property within the reaonably foreseeable future.

§ 1940.311 Environmental assessments for Class I actions.

The Agency's proposals and projects that are not identified in § 1940.310 of this subpart as categorical exclusions require the preparation of an environmental assessment in order to determine if the proposal will have a significant impact on the environment. For purposes of implemeting NEPA, the actions listed in this section are presumed to be major Federal actions. If an action has a potential to create a significant environmental impact, an EIS must be prepared. (In situations when there is clearly a potential for a

significant impact, the EIS may be initiated directly without the preparation of an assessment.) It is recognized that many of the applications funded annually by FmHA involve small-scale projects having limited environmental impacts. However, because on occasion they have the potential to create a significant impact, each must be assessed to determine the degree of impact. The scope and level of detail of an assessment for a small-scale action, though, need only be sufficient to determine whether the potential impacts are substantial and further analysis is necessary. Therefore, for the purpose of implementing NEPA, FmHA has classified its smaller scale approval actions as Class I actions. The format which will be used for accomplishing the environmental assessment of a Class I action is provided in Form FmHA 1940–21. An important aspect of this classification method is that it allows FmHA's environmental review staff to concentrate most of its time and efforts on those actions having the potential for more serious or complex environmental impacts. Additional guidance on the application of NEPA to Class I actions is provided in § 1940.319 of this subpart.

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see § 1940.310(b)(8) of this subpart to determine if it meets the requirements for a categorical exclusion. In the case of an expansion for which an environmental assessment was not done for the original FmHA project, the size of the proposal for assessment purposes is determined by adding the number of units in the original project(s) to those presently being requested.

(1) Financial assistance for a multi-family housing project, including labor housing which comprises at least 5 units, but no more than 25 units; and

(2) Financial assistance for or the approval of a subdivision, as well as the expansion of an existing one which involves at least 5 lots but no more than 25 lots.

(b) *Community and business programs.* Class I assessments will be prepared for the following categories:

(1) Financial assistance for water and waste disposal facilities and natural gas facilities that meet all of the following criteria:

(i) There will not be a substantial increase in the volume of discharge or the loading of pollutants from any existing or expanded sewage treatment facilities, or a substantial increase in an existing withdrawal from surface or ground waters. A substantial increase may be evidenced by an increase in hydraulic capacity or the need to obtain a new or amended discharge or withdrawal permit.

(ii) There will not be either a new discharge to surface or ground waters or a new withdrawal from surface or ground waters such that the design capacity of the discharge or withdrawal facility exceeds 50,000 gallons per day and provided that the potential water quality impacts are documented in a manner required for a Class II assessment and attached as an exhibit to the Class I assessment.

(iii) From the boundaries listed below, there is no extension, enlargement or construction of interceptors, collection, transmission or distribution lines beyond a one-mile limit estimated from the closest point of the boundary most applicable to the proposed service area:

(A) The boundary formed by the corporate limits of the community being served.

(B) If there are developed areas immediately contiguous to the corporate limits of a community, the boundary formed by the limits of these developed areas.

(C) If an unincorporated area is to be served, the boundary formed by the limits of the developed areas.

(iv) The proposal is designed for predominantly residential use with other new or expanded users being small-scale, commercial enterprises having limited secondary impacts.

(v) For a proposed expansion of sewage treatment or water supply facilities, such expansion would serve a population that is no more than 20 percent greater than the existing population.

(vi) The proposal is not controversial for environmental reasons, nor have relevant questions been raised regarding its environmental impact which cannot be addressed in a Class I assessment.

(2) Financial assistance for group homes, detention facilities, nursing homes, or hospitals, providing a net increase in beds of not more than 25 percent or 25 beds, whichever is greater; and

(3) Financial assistance for the construction or expansion of facilities, such as fire stations, retail stores, libraries, outpatient medical facilities, service industries, additions to manufacturing plants, office buildings, and wholesale industries, that:

(i) Are confined to single, small sites; and

(ii) Are not a source of substantial traffic generation; and

(iii) Do not produce unusual types or amounts of gaseous, liquid or solid wastes.

(4) Financial assistance for a livestock-holding facility or feed-lot meeting the criteria of § 1940.311(c)(8) of this subpart.

(c) *Farm programs.* In completing environmental assessments for the following Class I actions and the Class II actions listed in § 1940.312(d), special attention will be given to avoiding a duplication of effort with other Department agencies, particularly SCS. For applications in which the applicant is receiving assistance from other agencies, technical assistance from SCS, for example, FmHA will request from that Agency a copy of any applicable environmental review conducted by it and will adopt that review if the requirements of § 1940.324 of this subpart are met. FmHA will work closely with the other Federal Agencies to supplement previous or ongoing reviews whenever they cannot be readily adopted.

(1) Financial assistance for the installation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate at least 80 acres, but no more than 160 acres and provided that no wetlands are to be drained, in which case the application will fall under Class II as defined in § 1940.312 of this subpart;

(2) Financial assistance for the development of farm ponds or lakes of more than 5 acres in size, but no more than 10 acres, provided that no wetlands are inundated. if wetlands are inundated, the application will fall under Class II as defined in § 1940.312 of this subpart;

(3) Financial assistance for land-clearing operations encompassing over 15 acres, but no more than 35 acres;

(4) Financial assistance for the construction of energy producing facilities designed for on-farm needs such as methane digestors and fuel alcohol production facilities;

(5) Financial assistance for the conversion of more than 160 acres of pasture to agricultural production, but no more than 320 acres, provided that in a conversion to agricultural production no wetlands are affected, in which case the application will fall under Class II as defined in § 1940.312 of this subpart;

(6) Financial assistance to grazing associations;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises utilizing no more than 10 acres; and

(8) Financial assistance for a livestock-holding facility or feedlot having a capacity of at least one-half of those listed in § 1940.312(c)(9) of this

subpart. (If the facility is located near a populated area, it will be treated as a Class II action as required by § 1940.312(c)(10) of this subpart.)

(d) *General.* (1) Any Federal action which is defined in § 1940.310 of this subpart as a categorical exclusion, but which is controversial for environmental reasons, or which is the subject of an environmental complaint raised by a government agency, interested group, or citizen;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities, and amendments and revisions to all approved actions listed either in this section or equivalent in size or type to such actions and that alter the purpose, operation, location or design of the project as originally approved;

(3) The lease or disposal of real property by FmHA which meets either of the following criteria:

(i) The lease or disposal may result in a change in use of the real property in the reasonably foreseeable future, and such change is equivalent in magnitude or type to either the Class I actions defined in this section or the categorical exclusions defined in § 1940.310 of this subpart; or

(ii) The lease or disposal is controversial for environmental reasons, and the real property is equivalent in size or type to either the Class I actions defined in this section or the categorical exclusions defined in § 1940.310 of this subpart.

§ 1940.312 Environmental assessments for Class II actions.

Class II actions are basically those which exceed the threshholds established for Class I actions and, consequently, have the potential for resulting in more varied and substantial environmental impacts. A more detailed environmental assessment is, therefore, required for Class II actions in order to determine if the action requires an EIS. The format that will be used for completing this assessment is included as Exhibit H of this subpart. Further guidance on Class II actions is contained in § 1940.318 of this subpart. Class II actions are presumed to be major Federal actions and are defined as follows:

(a) *House assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see § 1940.310(b)(8) of this subpart to determine if it meets the requirements for a categorical exclusion, otherwise it is a Class II action.

(1) Financial assistance for a multi-family housing project, including labor housing, which comprises more than 25 units; and

(2) Financial assistance for, or the approval of, a subdivision as well as the expansion of an existing one, which involves more than 25 lots.

(b) *Community and business programs.* Class II actions are those which either do not meet the criteria for a categorical exclusion as stated in § 1940.310 of this subpart, a Class I action as stated in § 1940.311 of this subpart, or involve a livestock-holding facility or feedlot meeting the criteria for a Class II action as defined in paragraph (c)(9) and (10) of this section.

(c) *Farm programs.* In completing environmental assessments for the following actions, FmHA will first determine if the applicant has sought technical assistance from the Soil Conservation Service (SCS). If not, the applicant will be requested to do so. Subsequently, an approved loan will be structured so as to be consistent with any conservation plan developed with the applicant by SCS. However, the FmHA approving official need not include an element of the conservation plan within the loan agreement if that official determines that the element is both nonessential to the accomplishment of the plan's objectives and so costly as to prevent the borrower from being able to repay the loan. The SCS environmental review will be adopted by FmHA if the requirements of § 1940.324 of this subpart are met.

(1) Financial assistance for the installation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers either designed to irrigate more than 160 acres or serving any amount of acreage that involves the drainage of or withdrawal from a wetland for irrigation purposes;

(2) Financial assistance for the development of farm ponds or lakes either larger than 10 acres in size or for any smaller size that would inundate a wetland;

(3) Financial assistance for land-clearing operations encompassing more than 35 acres;

(4) Financial assistance for the construction or enlargement of aquaculture facilities;

(5) Financial assistance for the conversion of more than 320 acres of pasture to agricultural production or for any smaller conversion of pasture to agricultural production that affects a wetland;

(6) Financial assistance to an individual farmer or an association of farmers for water control facilities such as dikes, detention reservoirs, stream channels, and ditches;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises utilizing more than 10 acres;

(8) Financial assistance for alteration of a wetland;

(9) Financial assistance for a livestock-holding facility or feedlot located in a sparsely populated farming area having a capacity as large or larger than one of the following capacities; 1,000 slaughter steers and heifers; 700 mature dairy cattle (whether milkers or dry cows); 2,500 swine; 10,000 sheep; 55,000 turkeys; 100,000 laying hens or broilers when facility has unlimited continuous flow watering systems; 30,000 laying hens or broilers when facility has liquid manure handling system; 500 horses; and 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine, and sheep; and

(10) Financial assistance for a livestock-holding facility or feedlot located near a town or collection of rural homes which could be impacted by the facility, particularly with respect to noise, odor, water quality, visual, or transportation impacts and having a capacity of at least one-half of those listed in paragraph (c)(9) of this section.

(d) *General.* (1) Any action which meets the numerical criteria or other restriction for a Class I action contained in § 1940.311 of this subpart, but is controversial for environmental reasons. If the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, air quality, for example, the analysis of such a complaint or questions can be handled under the assessment format for a Class I action, Form FmHA 1940–21, as explained in § 1940.319 of this subpart. When several potential impacts are questioned, however, the assessment format (Exhibit H of this subpart) for a Class II action must be used to address these questions;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to all approved actions listed either in this section or equivalent in size or type to such actions and that alter the purpose, operation, location, or design of the project as originally approved;

(3) The approval of plans and State Investment Strategies for Energy Impacted Areas, designated under section 601 Energy Impacted Area Development Assistance Program, as well as the applications for financial assistance (excluding the award of

planning funds) for Energy Impact Areas;

(4) Proposals for legislation as defined in CEQ's regulations, § 1508.17;

(5) The issuance of regulations and instructions, as well as amendments to these, that describe either the entities, proposals and activities eligible for FmHA financial assistance, or the manner in which such proposals and activities must be located, constucted, or implemented; and

(6) The lease or disposal of any real property by FmHA which either does not meet the criteria for a categorical exclusion as stated in § 1940.310(e)(6) of this subpart or a Class I action as stated in § 1940.311(d)(3) of this subpart.

§ 1940.313 Actions that normally require the preparation of an Environmental Impact Statement (EIS).

The environmental assessment process will be used, as defined in this subpart, to identify on a case-by-case basis those actions for which the preparation of an EIS is necessary. Given the variability of the types and locations of actions taken by FmHA, no groups or set of actions can be identified which in almost every case would require the preparation of an EIS.

§ 1940.314 Criteria for determining a significant environmental impact.

(a) EISs will be done for those Class I and Class II actions that are determined to have a significant impact on the quality of the human environment. The criteria for determining significant impacts are contained in § 1508.27 of the CEQ regulations.

(b) In utilizing the criteria for a significant impact, the cumulative impacts of other FmHA actions planned or recently approved in the proposal's area of environmental impact, other related or similarly located Federal actions, and non-federal related actions must be given consideration. This is particularly relevant for frequently recurring FmHA actions that on an individual basis may have relatively few environmental impacts but create a potential for significant impacts on a cumulative basis. Housing assistance is one such example. Consequently, in reviewing proposals for subdivisions and multi-family housing sites, consideration must be given to the cumulative impacts of other federally assisted housing in the area, including FmHA's. The boundaries of the area to be considered should be based upon such factors as common utility or public service districts, common watersheds, and common commuting patterns to central employment or commercial areas. Additionally, the criteria for significant impacts utilized by the other involved housing agency(s) (VA and HUD, for example) must be reviewed when there is a potential for cumulative impacts. FmHA will consult with HUD for determining a significant impact whenever the total of HUD and FmHA housing units being planned within a common area of environmental impact exceeds the HUD thresholds listed in its NEPA regulations. (24 CFR Part 50).

(c) Because the environmental values and functions of floodplains and wetlands are of critical importance to man, and because these areas are often extremely sensitive to man-induced disturbances, actions which affect wetlands and floodplains will be considered to have a significant environmental impact whenever one or more of the following criteria are met:

(1) The public health and safety are identifiably affected, that is, whenever the proposed action may potentially result in a change in stream classification or affect any standards promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or similar State authority.

(2) The preservation of natural systems is identifiably affected, that is, whenever the proposed action or related activities may potentially create or induce changes in the existing habitat that may affect species diversity and stability (both flora and fauna and over the short and long term) or affect ecosystem productivity over the long term.

(3) The proposal, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Examples of such actions include facilities which produce, use, or store highly volatile, toxic, or water-reactive materials or facilities which contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events, (i.e., hospitals, nursing homes, schools).

§ 1940.315 Timing of the environmental review process.

(a) The FmHA office to which a potential applicant would go to seek program information and request application materials will notify the applicant of the major environmental requirements applicable to the type of assistance being sought. Emphasis should be placed on describing FmHA's natural resource management policies, the nature and purpose of the environmental impact assessement process, and the permissible actions of the applicant during this process.

(b) When a preapplication is either filed by the applicant or required by FmHA for a project not categorically excluded, the prospective applicant will be requested to complete Form FmHA 1940–20 at the time of the issuance of Form AD–622, "Notice of Preapplication Review Action," or other notice inviting an application. Form AD–622 will clearly inform the applicant—

(1) That during the period of application review, the applicant is to take no actions or incur any obligations which would either limit the range of alternatives to be considered or which would have an adverse effect on the environment, and

(2) That satisfactory completion of the environmental review process must occur prior to the issuance of the letter of conditions for Community Programs and prior to loan approval for all other programs where a preapplication is used.

FmHA must make its environmental reviews simultaneously with other loan processing actions so that they are an integral part of the loan process. Whenever the potential for a major adverse environmental impact is recognized, such as issues pertaining to floodplains, wetlands, endangered species, or the need for an EIS, priority consideration will be given to resolving this issue by appropriate FmHA staff. Loan processing need not cease during this resolution period, but loan processing actions will not be taken that might limit alternatives to be considered or whose outcome may be affected by the environmental review. The environmental impact review (whether a categorical exclusion, environmental assessment or EIS) must be completed prior to the issuance of the letter of conditions for Community Programs and prior to loan approval for all other programs where a preapplication is used. As an exception, however, whenever an application must be submitted to the National Office for concurrence or approval, the environmental review must be completed prior to and included in the submission to the National Office. The environmental impact review is not completed by FmHA until all applicable public notices and associated review periods have been completed and FmHA has taken any necessary action(s) to address comments received. The exception to the provisions of this paragraph is contained in § 1940.332 of this subpart.

(c) When a preapplication is not filed, the prospective applicant will be required to complete Form FmHA 1940–20 at the earliest possible time after FmHA is contacted for assistance but not later than when the application is

filed with the appropriate FmHA office. (For the exception to this statement as regards Farm Programs' Class I actions, see § 1940.309(c) of this subpart.) FmHA will not conisder the application to be complete, until FmHA staff have completed the environmental impact review, whether an assessment or EIS.

(d) For those applications that meet the requirements of a categorical exclusion, Form FmHA 1940–22 will be completed by FmHA as early as possible after receipt of the application. The application will not be considered complete until either the checklist is successfully completed or the need for any further environmental review is identified and completed.

§ 1940.316 Responsible officials for the environmental review process.

(a) *Approving offical.* With the exception of paragraph (b)(2) of this section, the FmHA official responsible for executing the environmental impact determination and environmental findings for a Class I or Class II action will be the official having approval authority for the action as specified in Subpart A of Part 1901 of this chapter (available in any FmHA office).

(b) *State Office level.*

(1) When the approval official is at the State Office level, the responsible Program Chief will have the responsibility for preparing the appropriate environmental review document. Whenever the Chief delegates this responsibility in accordance with § 1940.302(i) of this subpart, the Chief is responsible for reviewing the environmental document to ensure that it is adequate, that any deficiencies are corrected, and that it is signed by the preparer. When the document is satisfactory to the Chief, the Chief will sign it as the concurring official. When no delegation occurs, the Chief will sign as the preparer. If the environmental review document is either a Class I or Class II assessment, it must be provided to the SEC for review prior to being submitted to the approval official for final determinations. The SEC will review the assessment and provide recommendations to the approval official.

(2) Whenever the preparer and the SEC do not concur on either the adequacy of the assessment or the recommendations reached, the State Director, whether or not the approving official, will make the final decision on the matter or matters in disagreement. The State Director will also make the final decision whenever a State Office approving official disagrees with the joint recommendations of the preparer and the SEC. In either case, should the State Director desire, the matter will be forwarded to the National Office for resolution. The Program Support Staff will coordinate its resolution with the appropriate Assistant Administrator. Failure of these parties to resolve the matter will require a final decision by the Administrator. The State Director should also request the assistance of the National Office on actions that are too difficult to analyze at the State Office level.

(c) *District or County Office level.* The approval official for the action under review will be responsible for preparing the appropriate environmental review document and completing the environmental findings and impact determinations for Class I and Class II assessments, except in the circumstances outlined in paragraph (d) of this section. Whenever the approval official delegates the preparation of the assessment in accordance with § 1940.302(i) of this subpart, the approval official must, after exercising the same responsibilities assigned to the Program Chief as indicated in paragraph (b)(1) of this section, sign the assessment as the concurring official. Both District Directors and County Supervisors will contact, as needed, the SEC for technical assistance in preparing specific assessments.

(d) *Multi-level review.* When the approval official is at the County Office or District Office level but the action must be forwarded to the State Office for concurrence, the responsible Program Chief will perform the responsibilities of the concurring official with respect to the environmental review document and the SEC will review it, if a Class I or Class II assessment, in a similar manner as indicated in paragraph (b) of this section. Responsibilities similar to those of the Program Chief will exist for the District Director when the County Supervisor forwards an action to the District Office for concurrence.

(e) *Reservation of authority.* The Administrator reserves the right to request a State Director to forward to the National Office for review and approval any action which is highly controversial for environmental reasons, involves the potential for unique or extremely complex environmental impacts or is of national, regional, or great local significance. State Directors have a similar right with respect to District and County Offices.

§ 1940.317 Methods for ensuring proper implementation of categorical exclusions.

(a) The use of categorical exclusions exempts properly defined actions or proposals from the review requirements of NEPA. It does not exempt proposals from the requirements of other environmental laws, regulations or Executive orders. Each proposal must be reviewed to determine the applicability of other environmental requirements. Extraordinary circumstances may cause an application to lose its categorical exclusion and require a Class I environmental assessment, as further specified in paragraph (e) of this section. Section 1508.4 of CEQ's regulations state that "any procedures under this section will provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." For example, an application for approval of a subdivision of four lots is normally excluded from a NEPA review (see § 1940.310 (b)(5)) but is not exempt from the requirements of Executive Order 11990, "Protection of Wetlands." In the processing of this application, FmHA must determine if a wetland is to be impacted. Assuming that the development of the proposed subdivision site necessitates the filling of 2 acres of wetland, such a potential wetland impact, under the requirements of § 1940.310(a), represents an extraordinary circumstance that causes the application to lose its categorical exclusion. An environmental assessment for a Class I action must then be initiated. This assessment serves the purposes of providing for the extraordinary circumstance by analyzing the degree of potential impact and the need for further study as well as completing and documenting FmHA's compliance with the Executive order. In this particular example, unless an alternative site could not be readily located and the approving official wanted to further pursue consideration of the application, the environmental assessment would determine that there was a significant impact and an EIS would be required. (See § 1940.314 of this subpart.)

(b) The approving official for an action will be responsible for ensuring that no action which requires an environmental assessment is processed as a categorical exclusion. In order to fulfill this responsibility, Form FmHA 1940–22 will be completed for those actions that would normally be categorically excluded and as further defined in paragraph (c) of this section. When Form FmHA 1940–22 must be prepared and the approving official delegates its preparation in accordance with § 1940.302(i) of this subpart, the approving official must sign the form as the concurring official. If that approving official must, prior to approval, forward the action to a District or State Office

for review, a second concurrence must be executed by the Program Chief or District Director, as determined by the level of review being conducted. The checklist is filed with the application and serves as FmHA's documentation of compliance with the environmental laws, regulations and Executive Orders listed on the checklist. Whenever the preparer is within the State Office or is in the National Office, the FmHA office where the processing of the application was initiated is responsible for providing sufficient site and project information in order to complete the checklist.

(c) Form FmHA 1940–22 need not be completed for all categorical exclusions as defined in § 1940.310 of this subpart but only for those listed below. This list identifies the exclusions by their subject heading and paragraph number within § 1940.310 of this subpart.

(1) Housing assistance—(b)(1), (2), (3), (5), (7), and (9).

(2) Community and Business Programs—(c) (1) and (2).

(3) Farm Programs—(d) (1) and (4) through (11).

(4) General exclusions—(e) (6). Additionally, for the housing assistance exclusion identified in § 1940.310(b)(8), for farm programs exclusions listed in § 1940.310(d)(2) and (3), and for community and business programs exclusions processed under § 1940.310(e)(2) of this subpart, a notation must be made in the docket materials or running record for the action by the processing official that the specific criteria of the applicable exclusion have been met for the action under review.

(d) In applying the definition of a categorical exclusion to a project activity, the preparer must consider the following two elements in addition to the specific project elements for which approval is requested.

(1) If the application represents one of several phases of a larger proposal, the application will undergo the environmental review required for the elements or the size of the total proposal. For example, if approval of a four-lot subdivision is requested and the application evidences or the reviewer knows that additional phases are planned and will culminate in a 16-lot subdivision, the categorical exclusion does not apply and an environmental assessment for a Class I action mut be initiated and must address the impact of developing 16 lots. Should the applicant subsequently apply for approval of any of these additional phases, no further environmental assessment will be required as long as the original assessment still accurately reflects the environmental conditions found at the project site and the surrounding areas.

(2) If the application represents one segment of a larger project being funded by private parties or other government agencies, the size and elements of the entire project are used in determining the proper level of environmental assessment to be conducted by FmHA. If an environmental assessment is required, it will address the environmental impacts of the entire project.

(e) Under any one of the following circumstances, an action that is normally categorically excluded loses its classification as an exclusion and must be reviewed in the manner described in paragraph (g) of this section. The following listing corresponds to the list of land uses and environmental resources contained in part 2 of Form FmHA 1940–22.

(1) Wetlands—the proposed action (i) would be located adjacent to a wetland or a wetland is within the project site and (ii) the action would affect the values and functions of the wetland by such means as converting, filling, draining, or directly discharging into it;

(2) Floodplains—the proposed action (i) includes or involves an existing structure(s) located within a 100-year floodplain (500-year floodplain if critical action), or (ii) would be located within a 100-year floodplain (500-year floodplain if critical action) and would affect the values and functions of the floodplain by such means as converting, dredging, or filling or clearing the natural vegetation;

(3) Wilderness (designated or proposed)—the proposed action (i) would be located in a wilderness area or (ii) would affect a wilderness area such as by being visible from the wilderness area;

(4) Wild or Scenic River (proposed or designated or identified in the Department of the Interior's nationwide Inventory)—the proposed action (i) would be located within one-quarter mile of the banks of the river (ii) involves withdrawing water from the river or discharging water to the river via a point source, or (iii) would be visible from the river;

(5) Historical and Archeological Sites (listed on the National Register of Historic Places or which may be eligible for listing)—the proposed action (i) contains a historical or archeological site within the construction site or (ii) would affect a historical or archeological site;

(6) Critical Habitat or Endangered/Threatened Species (listed or proposed)—the proposed action (i) contains a critical habitat within the project site, (ii) is adjacent to a critical habitat, or (iii) would affect a critical habitat or endangered/threatened species;

(7) Coastal Barrier Included in Coastal Barrier Resources System—the proposed action would be located within the Coastal Barrier Resources System;

(8) Natural Landmark (listed on National Registry of Natural Landmarks)—the proposed action either (i) contains a natural landmark within the project site or (ii) would affect a natural landmark;

(9) Important Farmlands—the proposed action would convert important farmland to a nonagricultural use(s) except when the conversion would result from the construction of on-farm structures necessary for farm operations;

(10) Prime Forest Lands—the proposed action would convert prime forest land to another use(s), except when the conversion would result from the construction of on-farm structures necessary for farm operations;

(11) Prime Rangelands—the proposed action would convert prime rangeland to another use(s) except when the conversion would result from the construction of on-farm structures necessary for farm operations;

(12) Approved Coastal Zone Management Area—the proposed action would be located within such area and no agreement exists with the responsible State agency obviating the need for a consistency determination for the type of action under consideration; and

(13) Sole Source Acquifer Recharge Area—the proposed action would be located within such area and no agreement exists with the Environmental Protection Agency (EPA) obviating the need for EPA's review of the type of action under consideration.

(f) From paragraph (e) of this section, it should be noted that the location within the project site of any of the land uses and environmental resources identified in paragraphs (e) (1), (2), (9), (10), (11), (12), and (13) of this section is not sufficient for an action to lose its categorical exclusion. Rather, the land use or resource must be affected in the case of paragraphs (e) (1), (1), (2),(9), (10), and (11) of this section. For paragraphs (e) (12) and (13) of this section, further review and consultation can be avoided by written agreement with the responsible agency detailing the types of actions not requiring interagency review.

(g) Whenever a categorical exclusion loses its status as an exclusion for any of the reasons stated in paragraph (e) of

this section, the environmental impacts of the action must be reviewed through the preparation of a Class I assessment, Form FmHA 1940–21. Not all of the procedural requirements for a Class I assessment apply in this limited case, however. The following exemptions exist:

(1) No public notice provisions of this subpart apply.

(2) The applicant does not complete Form FmHA 1940–20.

(3) The action does not require a Class II assessment should more than one important land resource be affected.

§ 1940.318 Completing environmental assessments for Class II actions.

(a) The first step for the preparer (as defined in §§ 1940.302(i) and 1940.316 of this subpart) is to examine Form FmHA 1940–20 submitted by the applicant to determine if it is complete, consistent, fully responsive to the items, signed, and dated. If not, it will be returned to the applicant with a request for necessary clarifications or additional data.

(b) Once adequate data has been obtained, the assessment will be initiated in the format and manner described in Exhibit H of this subpart. In completing the assessment, appropriate experts from State and Federal agencies, universities, local and private groups will be contacted as necessary for their views. In so doing, the preparer should communicate with these agencies or parties in the most appropriate and expeditious manner possible, depending upon the seriousness of the potential impacts and the need for formal documentation. Appropriate experts must be contacted whenever required by a specific provision of this subpart or whenever the preparer does not have sufficient data or expertise available within FmHA to adequately assess the degree of a potential impact or the need for avoidance or mitigation. Comments from an expert must be obtained in writing whenever required by a specific provision of this subpart or the potential environmental impact is either controversial, complex, major, or apparently major. When correspondence is exchanged, it will be appended to the assessment. Oral discussions should be documented in the manner indicated in Exhibit H of this subpart. On the other hand, there is no need for the preparer to seek expert views outside of the Agency when there is no specific requirement to do so and the preparer has sufficient expertise available within FmHA to assess the degree of the potential impact and the need for avoidance or mitigation.

(c) At the earliest possible stage in the assessment process, the preparer will identify the Federal, State, and local parties which are carrying out related activities, either planned or under way. Discussions with the applicant and FmHA staff familiar with the project area should assist in this identification effort. If there is a potential for cumulative impacts, the preparer will consult with the involved Federal agencies to determine the nature, timing and results of their environmental analysis. These consultations will be documented in the assessment and considered or adopted when making the environmental impact determination. (See § 1940.324 of this subpart concerning adoption of assessments.) If it is determined that the cumulative impacts are significant, the preparer will further contact the involved Federal agencies and attempt to determine the lead Federal Agency as discussed in §§ 1940.320(b) and 1940.326 of this subpart.

(d) Consultations similar to those discussed in paragraph (c) of this section will also be undertaken with those Federal and State agencies which are directly involved in the FmHA action, either through the provision of financial assistance or the review and approval of a necessary plan or permit. For example, a construction permit from the U.S. Army Corps of Engineers may be required for a project. In such an instance, the environmental assessment cannot be completed until the preparer has either reviewed the other Agency's completed environmental analysis or consulted with the other Agency and is reasonably sure of the scope, content, and expected environmental impact determination of the forthcoming analysis and has so documented for the FmHA assessment this understanding. If the other Agency believes that the project will have a significant impact, a joint or lead impact statement will be prepared. If the other Agency does not believe a significant impact will occur, the preparer will consider this finding and its supporting analysis in completing the FmHA environmental impact determination. Guidance in adopting an environmental assessment prepared by another Federal Agency is provided in § 1940.324 of this subpart.

(e) For actions having a variety of complex or interrelated impacts that are difficult for the preparer to assess, consideration should be given to holding a public meeting in the manner described in § 1940.331(c) of this subpart. Such meetings should not be assumed as being limited to projects for which EISs are being prepared. Such a meeting can serve a useful purpose in better defining and identifying complex impacts, as well as locating expertise with respect to them. The results of a public meeting and the follow-up from it can also serve as a valuable tool in reaching an early understanding on the potential need for an EIS. When identified impacts are difficult to quantify (such as odor and visual and community impacts) or controversial, a public information meeting should be held near the project site in order to reach a better understanding of the magnitude of the impact and the local area's concern about it. Whenever held, it should be announced and organized in the manner described in § 1940.331(c). However, a transcript of the meeting need not be prepared, but the preparer will make detailed notes for incorporation in the assessment. (See § 1940.331(c) of this subpart.)

(f) Throughout this assessment process, the preparer will keep in mind the criteria for determining a significant environmental impact. If at any time in this process it is determined that a significant impact would result, the preparer will so notify the approving official. Those actions specified in § 1940.320 of this subpart will then be initiated, unless the approving official disagrees with the preparer's recommended determination, in which case further review of the determination may be required as explained in § 1940.316 (b), (d) and (e) of this subpart. As soon as possible after the need for an EIS is determined, the applicant will also be advised of this in writing, as well as reinformed of the limitations on its actions during the period that the EIS is being completed. (See § 1940.309(e) of this subpart.) The applicant's failure to comply with these limitations will be considered as grounds for postponement of further consideration of the application until such problem is alleviated.

(g) Similarly, throughout the assessment process, consideration will be given to incorporating mechanisms into the proposed action for reducing, mitigating, or avoiding adverse impacts. Examples of such mechanisms which are commonly referred to as mitigation measures include—

(1) The deletion, relocation, redesign or other modifications of the project elements,

(2) The dedication of environmentally sensitive areas which would otherwise be adversely affected by the action or its indirect impacts,

(3) Soil erosion and sedimentation plans to control runoff during land-disturbing activities,

(4) The establishment of vegetative buffer zones between project sites and adjacent land uses,

(5) Protective measures recommended by environmental agencies having jurisdiction or special expertise regarding the action's impacts, and

(6) Zoning.

Mitigation measures must be tailored to fit the specific needs of the action, and they must also be practical and enforceable. Mitigation measures which will be taken must be documented in the assessment (Item XIX of Exhibit H of this subpart) and placed in the offer of financial assistance as special conditions or in the implementation requirements when the action does not involve financial assistance. These measures will be consistent with the basic goal of the proposed action and developed in consultation with the appropriate program office.

(h) As part of the assessment process, the preparer will initiate the consultation and compliance requirements for the environmental laws, regulations, and Executive orders specified in the assessment format. The assessment cannot be completed until compliance with these laws and regulations is appropriately documented. The project's failure to meet the requirements specified in Item 9b of Form FmHA 1940–21 for a Class I action and Item XXIb of Exhibit H of this subpart for a Class II action will result in postponement of further consideration of the application until such problem is alleviated.

(i) When the preparer has completed the assessment, the related materials and correspondence utilized will be attached. The preparer will then either recommend to the approving official that the action has the potential for significantly affecting the quality of the human environment or will recommend that the action does not have this potential and, therefore, the preparation of an EIS is not necessary.

(Items 9a of Form FmHA 1940–21 for Class I action and item XXIa of Exhibit H of this subpart for a Class II action.) The recommended environmental findings will also be completed. (Item 9b of Form FmHA 1940–21 for a class I action and Item XXIb of Exhibit H of this subpart for a Class I action.) In those instances specified in § 1940.316, the assessment will then be forwarded to the concurring official and, as required, to the SEC for review. The concurring official will coordinate, as necessary, with the preparer any questions, concerns or clarifications and complete and document the review prior to the assessment being submitted to the approving official or the SEC. The SEC will coordinate with the concurring official in a similar fashion whenever the latter's review is required.

(j) The approving official will review the environmental file and recommendations. The official will then execute the environmental impact determination and findings. If the conclusions reached are that there is no significant impact and there is compliance with the listed requirements, the format contained in Exhibit I of this subpart will be used. If a significant impact is determined, the steps specified in § 1940.320 of this subpart will be initiated for the preparation of the EIS. If a determination is made that the proposed action does not comply with the environmental requirements that are explained in this subpart and listed in Item 9b of Form FmHA 1940–21 for a Class I action or Item XXIb of Exhibit H of this subpart for a Class II action and there are no feasible alternatives (practicable alternatives when required by specific provisions of this subpart), modifications, or mitigation measures which could comply, the action will be denied or disapproved. If the approving official's determination or findings differ from the recommendations of the preparer, concurring official or the SEC, this difference will be addressed in the manner specified in § 1940.316 of this subpart.

(k) When there is no need for further review as discussed in paragraph (j) of this section and findings of compliance and a determination of no significant impact are reached, the assessment process is conditionally concluded. To conclude the assessment, the applicant will then be requested to provide public notification of these results as indicated in § 1940.331(b)(3) of this subpart. The approving official will not approve the pending application for at least 15 days from the date the notification is last published. If comments are received as a result of the notification, they will be included in the environmental assessment and considered. Any necessary changes resulting from this consideration will be made in the assessment, impact determinations, and findings. If the changes require further implementation steps, such as the preparation of an EIS, they will be undertaken. If there are no changes in the findings and determinations, the approving official may continue to process the application. The environmental documents, i.e., the assessment, related correspondence, Form FmHA 1940–20, and the finding of no significant impact will be included with the approval documents which are assembled for review and clearance within the approving office.

(l) Whenever changes are made to an action or comments or new or changed information relating to the action's potential environmental effects is received after the assessment is completed but prior to the action approval, such change, comment, or information will be evaluated by the approving official to determine the impact on the complete assessment. Whenever the contents or findings of that assessment are affected, the assessment process for that action will be revised and any other related requirement of this subpart met. Changes to an action in terms of its location(s), design, purpose, or operation will normally require, at a minimum, modification of the original assessment to reflect such change(s) and the associated environmental impacts.

(m) When comments are received after the action has been approved, the approving official will consider the environmental importance of the comments and the necessity and ability to amend both the action, with respect to the issue raised and the action's stage of implementation. The National Office may be consulted to assist in determining whether there are any remaining environmental requirements which need to be met under the specific circumstances. A similar procedure will be followed when new or changed information is received after project approval. Amendments and revisions to actions will be handled as specified in §§ 1940.310 to 1940.313 of this subpart.

§ 1940.319 Completing environmental assessments for Class I actions.

(a) As stated in this subpart, a main purpose of Form FmHA 1940–21 is to provide a mechanism for reviewing actions with normally minimal impacts and for documenting a finding of no significant impact, as well as compliance determinations for other applicable environmental laws, regulations and policies. The second major purpose is to serve as a screening tool for identifying those Class I actions which have more than minimal impacts and which, therefore, require a more detailed environmental review.

(b) The approach to reviewing a Class I action under the assessment format of Form FmHA 1940–21 is exactly the same as for a Class II action. The preparer (as defined in §§ 1940.302(i) and 1940.316 of this subpart) must become familiar with the elements of the action, the nature of the environment to be affected, the relationship to any other Federal actions or related nonfederal actions, and the applicable environmental laws and regulations.

(c) The data submission requirements placed on the applicant for a Class I action are not as extensive as for a

Class II action. The requirements are limited to completing the face of Form FmHA 1940–20, as well as categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI, whenever a previously completed environmental analysis covering these categories is not available. Should it later be determined that the magnitude of the Class I action's impact warrants a more detailed assessment, the applicant will be required to submit the remaining items of the data request. Additionally, the circumstances under which FmHA does not require the submission of Form FmHA 1940–20 by an applicant whose proposed action requires a Class I assessment are specified in § 1940.317(f) of this subpart.

(d) The preparer must ensure that the data received from the applicant is complete, consistent, signed and dated before initiating the assessment. If it is not, the applicant will be required to make the necessary changes and clarifications. The reviewer must also ensure that the application properly meets the definition of a Class I action. Phased or segmented projects, as discussed in § 1940.317(d) of this subpart, will be identified and the elements and the size of the entire project used to classify the action.

(e) An important element of this assessment is to determine if the action affects an environmental resource which is the subject of a special Federal consultation or coordination requirement. Such resources are listed in the assessment format, Form FmHA 1940–21, and include wetlands, floodplains, and historic properties, for example. If one of the listed resources is to be affected, the preparer must demonstrate the required compliance by accomplishing the review and coordination requirements for that resource. Documentation of the steps taken and coordination achieved will be attached. However, if more than one listed resource is to be affected, this will be viewed as the action having more than minimal impacts and the environmental asssessment format for a Class II action will be initiated.

(f) Similarly in completing item 3, General Impacts of Form FmHA 1940–21, the assessment format for a Class II action must be initiated if more than one category of impacts cannot be checked as minimal. If there is a single category which needs analysis, this can be accomplished by attaching an appropriate exhibit addressing the questions and issues for that impact, as specified in the environmental assessment format for a Class II action. See § 1940.311(b)(1) of this subpart for when an attached discussion of water quality impacts is mandatory.

(g) The comments of State, regional, and local agencies obtained through applicable permit reviews or the implementation of Executive Order 12372, Intergovernmental Review of Federal Programs, will be incorporated into the assessment, if this review applies to the action. The receipt of negative comments of an environmental nature will warrant the initiation of a more detailed assessment under the format for a Class II action (Exhibit H of this subpart). Also, the issue of controversary must be addressed, and if the action is controversial for environmental reasons, the environmental assessment format for a Class II action (Exhibit H of this subpart) will be completed. However, if the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, air quality, for example, the analysis of such complaints or questions can be handled under the assessment format for a Class I action. This analysis will then be provided by the approving official to the party or parties which raised the matter with FmHA. When several potential impacts are questioned, however, the more detailed assessment format will be accomplished to address these questions.

(h) The potential cumulative impacts of this action, particularly as it relates to other FmHA actions recently approved in the area or planned, will be analyzed. If the cumulative impact is not minimal and, for example, cumulatively exceeds the criteria and thresholds discussed in paragraphs (e), (f) and (g) of this section, the environmental assessment format for a Class II action will be completed. The actions of other Federal agencies and related nonfederal actions must also be assessed on this basis. When there is a Federal action involved, the environmental review conducted by that Agency will be requested and, if it sufficiently addresses the cumulative impact, can be utilized by the preparer as the FmHA assessment, assuming the impacts are not significant. (See § 1940.324 of this subpart.) If the other Agency is doing or planning an EIS, the preparer will inform that Agency of our action and request to be a cooperating agency.

(i) The preparer will have the responsibility of initiating the assessment format for a Class II action (Exhibit H of this subpart) whenever the need is identified. This should be done as early as possible in the review process. The preparer should not complete the assessment for a Class I action when it is obvious that the assessment format for a Class II action will be needed. The preparer will simply start the more detailed assessment and inform the applicant of the additional data requirements.

(j) Exhibit I will be completed by the approval official in the same instances for a Class I assessment as for a Class II assessment. However, public notification of FmHA's finding of no significant environmental impact will not be required for a Class I assessment. Also, special provisions for completing a Class I assessment for an action that is normally categorically excluded but loses its classification as an exclusion are contained in § 1940.317(g) of this subpart. With the exception of the two preceding sentences, all other procedural requirements of the assessment process, such as the timing of the assessment and the limitations on the applicant's actions, apply to a Class I assessment.

§ 1940.320 Preparing EISs.

(a) *Responsibility.* Whenever the District Director or County Supervisor determines there is a need to prepare an EIS, the State Director will be notified. The EIS will be prepared at the State Office and the State Director will assume the responsibility for preparing it. The State will in turn notify the Administrator of these EISs, as well as those needed EISs identified by a State Office review. EISs will be prepared according to this section. The State Director will be responsible for actions initiated within the State. However, in so doing, the State Director will consult with the National Office to determine that the document meets the requirements of NEPA. State Directors will be responsible for issuing such EISs. However, unless delegated authority by the Administrator, based upon a demonstrated capability and experience in preparing EISs, the State Director will not issue the EIS until reviewed and approved by the Administrator.

(b) *Organizing the EIS process.* Prior to initiating the scoping process outlined below, the preparer of the EIS will take several organizational steps to ensure that the EIS is properly coordinated and completed as efficiently as possible. To accomplish this, the below-listed parties need to be identified in advance; the list should be expanded as familiarity with the project increases. Those parties falling within the first four groups should be formally requested to serve as cooperating agencies. If any of these agencies appear to be a more appropriate lead agency than FmHA

(using the criteria contained in § 1501.5(c) of the CEQ regulations), consultations should be initiated with that agency to determine the lead agency. If difficulties arise in completing this determination, the National Office will be consulted for assistance. All of the parties identified below will be sent a copy of the notice of intent to prepare the EIS and an invitation to the scoping meeting, as discussed in paragraph (c) of this section.

(1) All Federal and State agencies that are being requested to provide financial assistance for the project or related projects;

(2) All Federal agencies that must provide a permit for the project should it be approved;

(3) All Federal agencies that have a specific environmental expertise in major environmental issues identified to date;

(4) The Agency responsible for the implementation of the State's environmental impact analysis requirement, if one has been enacted or promulgated by the State;

(5) All Federal, State, and local agencies that will be requested to comment on the draft EIS;

(6) All individuals and organizations that have expressed an interest in the project; and

(7) National, regional, or local environmental organizations whose particular area of interest corresponds to the major impacts identified to date.

(c) *Scoping process.* As soon as possible after a decision has been made to prepare an EIS, the following process will be initiated by the preparer for identifying the major issues to be addressed in the EIS and for developing a coordinated government approach to the preparation and review of the EIS.

(1) The first step in this process will be the publication of a notice of intent to prepare the EIS. The notice will indicate that an EIS will be prepared and will briefly describe the proposed action and possible alternatives; state the name, address, and phone number of the preparer, indicating that this person can answer questions about the proposed action and the EIS; list any cooperating agencies, and include the date and time of the scoping meeting. If the latter information is not known at the time the notice of intent is prepared, it will be incorporated into a special notice, when available, and published and distributed in the same manner as the notice of intent. It will be the responsibility of the preparer of the EIS to inform the National Office of the need to publish a notice of intent which will coordinate the publication of the notice in the **Federal Register.** For requirements relating to the timing and publication of the notice of intent within the project area, as well as the applicant's responsibilities for the notice, see § 1940.331(b) of this subpart.

(2) A scoping meeting will be held. To the extent possible, the scoping meeting should be integrated with any other early planning meetings of the Agency or other involved agencies. The scoping meeting will be chaired by the preparer of the EIS and will be organized to accomplish the following major purposes (as well as other purposes listed in § 1501.7 of the CEQ regulations).

(i) Invite the participation of affected Federal, State, and local agencies, any affected Indian Tribe, the proponent of the action, and any interested parties including those who may disagree with the action for environmental reasons;

(ii) Determine the scope and the significant issues to be analyzed in depth in the environmental impact statement;

(iii) Identify and eliminate, from detailed study, the issues which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere;

(iv) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead Agency retaining responsibility for the statement;

(v) Indicate any public environmental assessments and other EISs which are being or will be prepared that are related to, but are not part of, the scope of the impact statement under consideration;

(vi) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement; and

(vii) Indicate the relationship between the timing of the preparation of environmental analyses and the Agency's tentative planning and decisionmaking schedule;

(3) Minutes of the scoping meeting, including the major points discussed and decisions made, will be prepared and retained by the preparer of the EIS as part of the environmental file. The preparer will offer, during the scoping meeting, to send copies of the minutes to any interested party upon written request.

(d) *Interdisciplinary approach.* The EIS will be prepared using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers will be appropriate to address the potential environmental impact associated with the project. This can be accomplished both in the information collection stage and the analysis stage by communication and coordination with environmental experts at local, State and Federal agencies (particularly cooperating agencies) and universities near the project site. When needed information or expertise is not readily available, these needs should be met through procurement contracts with qualified consulting firms. Consulting firms can be utilized to prepare the entire EIS or portions of it as specified in § 1940.336 of this subpart.

(e) *Content and format of EIS.* The EIS will be prepared in the format and manner described in Part 1502 of the CEQ regulations. There is a great deal of specific guidance in that Part which will not be repeated here.

(f) *Circulation of the EIS.* FmHA will circulate for review and comment the draft and final EIS as broadly as possible. Therefore, it will be necessary for the preparer to have sufficient copies printed or reproduced for this purpose. In identifying the parties to receive a draft EIS, the same process should be utilized as is employed for inviting participants to the scoping meeting. (See paragraph (b) of this section.) Special emphasis should be given to transmitting the draft to those agencies with jurisdiction or expertise on the proposed action's major impacts, as well as those parties who have expressed an interest in the action. The final EIS will be provided to all parties that commented on the draft EIS.

(g) *Public information meetings.* A public information meeting, as specified in § 1940.331(c)(1), will be held near the project site to discuss and receive comments on the draft EIS.

(h) *Response to comments.* The preparer of the EIS will respond to comments on the draft EIS as required by § 1503.4 of the CEQ regulations. The major and most frequently raised issues during the public information meeting will also be identified and addressed.

(i) *Timing of review.* The preparer of the EIS will be responsible for ensuring that the timing requirements for FmHA actions and the review periods for draft and final EISs are fully met (§ 1506.10 of CEQ regulations).

§ 1940.321 Use of completed EIS.

(a) The final EIS will be a major factor in the Agency's final decision. Agency staff making recommendations on the action and the approving official will be familiar with the contents of the EIS and its conclusions and will consider these in formulating their respective positions with respect to the action. The final EIS and all comments received on the draft will accompany the proposal through the FmHA final clearance process. The alternatives considered by the approving official will be those addressed in the final EIS.

(b) As part of this review process, the preparer of the EIS will complete the recommendations listed in Item XXIb and c of Exhibit H of this subpart and provide them to the approving official prior to a final decision.

§ 1940.322 Record of decision.

Upon completion of the EIS and its review within FmHA and before any action is taken on the decision reached on the proposal, the approving official will prepare, in consultation with the preparer of the EIS, a concise record of the decision which will be available for public review. The record will:

(a) State the decision reached;

(b) Certify that the timing requirements for the EIS process have been fully met;

(c) Identify all alternatives considered in reaching the decision specifying the alternative or alternatives that were considered to be environmentally preferable and discuss the relevant factors (environmental, economic, technical, statutory mission and, if applicable, national policy) that were considered in the decision;

(d) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why not; and

(e) If any mitigation measures have been adopted, specify the monitoring and enforcement program that will be utilized.

§ 1940.323 Preparing supplements to EIS's.

(a) Either the State Office or the National Office, as appropriate, will prepare supplements to either draft or final EIS's if:

(1) A substantial change or changes occur in the proposed action and such changes are relevant to the environmental impacts previously presented; or

(2) Significant new circumstances or information arise which are relevant to environmental concerns and bear on the proposed action or its impacts.

(b) If the preparer of the draft or final EIS determines that the changes or new circumstances referenced in paragraph (a) of this section do not require the preparation of a supplemental EIS, the preparer will complete an environmental assessment for a Class II action which will document the reasons for this determination.

(c) The preparer will be responsible for advising the approving official of the need for a supplement. The latter will make the Agency's formal determination in a manner consistent with § 1940.316 of this subpart.

(d) All of the requirements of this subpart that apply to the completion of an initial EIS apply to the completion of a supplement with the exception of the scoping process, which is optional. Additionally, if the approving official believes that there is a need for expedited or special procedures in the completion of a supplement, the approval of CEQ must first be obtained by the Administrator for any alternative procedures. The final supplement will be included in the project file or docket and used in the Agency's decisionmaking process in the same manner as a final EIS. (See § 1940.321 of this subpart.)

§ 1940.324 Adoption of EIS or environmental assessment prepared by other Federal Agency.

(a) FmHA may adopt an EIS or portion thereof prepared by another Federal Agency after completion if:

(1) An independent review of the document is conducted by the preparer of the FmHA environmental review and it is concluded that the document meets the requirements of this subpart; and

(2) If the actions covered in the EIS are substantially the same as those proposed by FmHA and the environmental conditions in the project area have not substantially changed since its publication, FmHA will recirculate the EIS as a "final" and so notify the public as specified in § 1940.331(b) of this subpart. The final EIS will contain an appropriate explanation of the FmHA involvement and will be sent to all parties who would typically receive a draft EIS published by FmHA. If there are differences between the actions or the environmental conditions as discussed in the original EIS, that EIS will be updated to cover these differences and recirculated as a draft EIS with the public so notified. From that point, it will be reviewed and processed in the same manner as any other FmHA EIS.

(b) If the adopted EIS is not final within the agency that prepared it, or if the action it assesses is the subject of a referral under Part 1504 of the CEQ regulations, or if the statement's adequacy is the subject of a judicial action which is not final, FmHA must so specify and provide an explanation in the recirculated EIS.

(c) After recirculation (whether as a draft or final), the EIS will be reviewed and processed in the same manner as any other FmHA EIS.

(d) FmHA may also adopt all or part of environmental assessments or environmental reviews prepared by other Federal agencies. In this case, only paragraph (a)(1) of this section applies. Additionally, when all of another Federal agency's assessment is adopted, without supplementation, for a Class II action and a finding of no significant environmental impact (Exhibit I) is reached by the proper FmHA official, no public notification of FmHA's finding of no significant environmental impact is required if:

(1) The other Federal agency or its designee published a similar finding in a newspaper of general circulation in the vicinity of the proposed action;

(2) The other Federal agency's or its designee's public notice clearly described the action subject to the FmHA environmental review; and

(3) The other federal agency's or its designee's public notice was published less than eighteen months from the date FmHA adopted the assessment.

§ 1940.325 FmHA as a cooperating Agency.

(a) FmHA will serve as a cooperating Agency when requested to do so by the lead Agency for an action in which FmHA is directly involved or for an action which is directly related to a proposed FmHA action. An example of the latter would be a request from EPA to participate in an EIS covering its sewage treatment plans for a community, as well as the community's water system plans pending before FmHA. The State Director will coordinate FmHA's participation as a cooperating Agency for an action at the State Office level. The Administrator will have the same responsibility at the National Office level.

(b) When requested to be a cooperating Agency on a basis other than that discussed above, the State Director will consider the expertise which FmHA could add to the particular EIS process in question and existing workload commitments. If a decision is made on either of these two bases not to participate as a cooperating Agency, a copy of the letter signed by the State Director or Administrator and so informing the lead Agency will be sent to CEQ.

(c) As a cooperating agency, FmHA will participate in the development and implementation of the scoping process. If requested by the lead agency, provide the lead Agency with staff support and descriptive materials with respect to the analyses of the FmHA portion of the action(s) to be covered, review and comment on all preliminary draft materials prior to their circulation for public review and comment, and attend and participate in public meetings called by the lead Agency concerning the EIS.

(d) The State Director will request the lead Agency to fully identify the Agency's involvement in all public documents and notifications.

(e) FmHA will use the EIS as its own as long as—

(1) FmHA's comments and concerns are adequately addressed by the lead Agency and

(2) The final EIS is considered to meet the requirements of this subpart.

It will be the responsibility of the preparer of the FmHA environmental review document to formally advise the approving official on these two points. The failure of the lead Agency's EIS to meet either of these stipulations will require FmHA to follow the steps outlined in § 1940.324 of this subpart prior to the approving official's decision on the FmHA action.

§ 1940.326 FmHA as a lead Agency.

(a) When other Federal agencies are involved in an FmHA action or related actions that require the preparation of an EIS, the preparer will consult with these agencies to determine a lead Agency for preparing the EIS. The criteria for making this determination will be those contained in § 1505.5 of the CEQ regulations. If there is a failure to reach a determination within a reasonably short time after consultation is initiated, the National Office will be contacted. The assistance of CEQ will then be requested by the Administrator in order to conclude the determination of a lead Agency.

(b) When acting as lead Agency, the FmHA preparer will request other Federal and State agencies to serve as cooperating agencies on the basis of the guidance provided in § 1940.320(b) of this subpart.

§ 1940.327 Tiering.

To the extent possible, FmHA may consider the concept of tiering in the preparation of environmental assessments and EISs. Tiering refers to the coverage of general matters in broader environmental impact statements, such as one done for a national program or regulation, with subsequent narrower statements or environmental analyses incorporating by reference the broader matters and concentrating on the issues specific to the action under consideration. Tiering can be used when the sequence of analysis is from the program level to site-specific actions taken under that program or from an initial EIS to a supplement which discusses the issues requiring supplementation.

§ 1940.328 State environmental policy acts.

(a) Numerous States have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It is important that FmHA staff have an understanding of which States have such requirements and how they apply to applicant's proposals. It will be the responsibility of each State Director to determine the applicable State requirements and to establish a working relationship with the State personnel responsible for their implementation.

(b) In processing projects located within States having State NEPA's, the preparer of the FmHA assessment will determine as early as possible in the assessment process whether the project falls under the requirements of the State NEPA. If it does, one of the following cases will exist and the appropriate actions specified will be taken.

(1) The applicant has complied with the State's NEPA, and it was determined under the State's requirements that the proposed project would not result in sufficient potential impacts to warrant the preparation of an impact statement or other detailed environmental report required by the State NEPA. This finding or conclusion by the State will be considered in the FmHA's review, and any supporting information used by the State will be requested. However, the State's finding can never be the total basis for FmHA's environmental impact determination. An independent and thorough review in accordance with the requirements of this subpart must be conducted by the preparer.

(2) The applicant has complied with the State NEPA, and it was determined under its implementing guidelines that a significant impact will result. This fact will be given great weight in the Agency's environmental determination. However, the State's definition of significant environmental impact may encompass a much lower threshhold of impacts compared to FmHA's. In such a case, if the preparer does not believe that a significant impact will result under Agency guidelines for determining significant impacts, the environmental assessment will be prepared and include a detailed discussion with supporting information as to why the environmental reviewer's recommendation differs from that of the State's. However, the assessment cannot be completed until the State's impact statement requirements have been fulfilled by the applicant and the resulting impact statement has been reviewed by the preparer. An environmental impact determination will then be executed based upon the assessment and the statement.

(c) It should be emphasized that at no time does the completion of an impact statement under the requirements of a State NEPA obviate the requirement for FmHA to prepare an impact statement. Consequently, as soon as it is clear to the preparer that the Agency will have to prepare a statement, every attempt should be made to accomplish the statement simultaneously with the State's. Coordination with State personnel is necessary so that data and expertise can be shared. In this manner, duplication of effort and the review periods for the separate statements can be minimized. This process clearly requires a close working relationship with the appropriate State personnel.

§ 1940.329 Commenting on other Agencies' EIS's.

(a) State Directors are authorized to comment directly on EIS's prepared by other Federal agencies. In so doing, comments should be as specific as possible. Any recommendations for the development of additional information or analyses should indicate why there is a need for the material.

(b) Comments should concentrate on those matters of primary importance to FmHA and on areas of Agency expertise, such as rural planning and development. Any potential conflicts with FmHA programs, plans, or actions should be clearly identified. Special attention should be given to the relationship of the alternatives under study to the State Office's natural resource management guide and the objectives of the Department's land use regulation (Exhibit A of this subpart). Copies of comments addressing land use questions will be provided to the appropriate chairman of the USDA State-level committee dealing with land use matters.

(c) Whenever a State Director has serious concerns over the acceptability of the anticipated environmental impacts, the State Director will notify the Administrator.

§ 1940.330 Monitoring.

(a) FmHA staff who normally have responsibility for the postapproval inspection and monitoring of approved projects will ensure that those measures

which were identified in the preapproval stage and required to be undertaken in order to reduce adverse environmental impacts are effectively implemented.

(b) This staff, as identified in paragraph (a) of this section, will review the action's approval documents and consult with the preparer of the action's environmental review document prior to making site visits or requesting project status reports in order to determine if there are environmental requirements to be monitored.

(c) The preparer will directly monitor actions containing difficult or complex environmental special conditions.

(d) Before certifying that conditions contained within offers of financial assistance have been fully met, the responsible monitoring staff will obtain the position of the preparer for those conditions developed as a result of the environmental review.

(e) Whenever noncompliance with an environmental special condition is detected by FmHA staff, the preparer and the SEC will be immediately informed. The approving official will then take appropriate steps, in consultation with the responsible program office, the SEC and preparer, to bring the action into compliance.

§ 1940.331 Public involvement.

(a) *Objective.* The basic objective of FmHA's public involvement process is threefold. It is to ensure that interested citizens—

(1) Can readily obtain knowledge of the environmental review status of FmHA's funding applications,

(2) Have the opportunity to input into this review process before decisions are made, and

(3) Have access to the environmental documents supporting FmHA decisions.

(b) Public notice requirements.

(1) For projects that undergo the preparation of an environmental impact statement, the first element of formal public participation in the EIS process involves the publication of the notice of intent to prepare an EIS. The content of the notice of intent and its publication by FmHA in the **Federal Register** are explained in § 1940.320 of this subpart. With respect to notification within the project area, the applicant will be requested to publish a copy of the notice of intent and the date of the scoping meeting in the newspaper of general circulation in the vicinity of the proposed action and in any local or community-oriented newspapers within the proposed action's area of environmental impact. The notice will be published in easily readable type in the nonlegal section of the newspaper(s). It will also be bilingual if the affected area is largely non-English speaking or bilingual. Individual copies of the notice will be sent by the applicant to the appropriate regional EPA office, any State and regional review agenices established under Executive Order 12372; the State Historic Preservation Officer; local radio stations and other news media; any State or Federal agencies planning to provide financial assistance to this or related actions or required to review permit applications for this action, any potentially affected Indian Tribe; any individuals, groups, local, State, and Federal agencies known to be interested in the project; and to any other parties that FmHA has identified to be so notified. It will also be posted at a readable location on the project site. The applicant will provide FmHA with a copy of the notice as it appeared in the newspaper(s), the date(s) published, and a list of all parties receiving an individual notice. Publication and individual transmittal of the notice for the scoping meeting will be accomplished at least 14 days prior to the date of the meeting.

(2) Coincident with the distribution of either a draft or final EIS, a notice of the statement's availability will be published in the same manner as a notice of intent to prepare an EIS.

(3) For Class II actions that are determined not to have a significant environmental impact, the Agency will require the applicant to publish a notification of this determination. This notice will be published in the same manner as a notice of intent to prepare an EIS but will appear for at least 3 consecutive days if published in a daily newspaper or otherwise in two consecutive publications. Individual copies will be sent to the same parties as specified in a notice of intent with the exception of local radio stations and other news media. Also, there is no requirement to post this notice on the project site. The applicant will provide FmHA with a copy of this notice, the dates the notice was published, and a list of all parties receiving an individual notice. This notification procedure does not apply to actions reviewed solely on the basis of a Class I assessment.

(4) The public notice procedures for actions that will affect floodplains, wetlands, important farmlands, prime rangelands or prime forest lands are contained in Exhibit C of this subpart. These procedures apply to actions that require either an EIS, Class II assessment or Class I assessment. However, whenever an action normally classified as a categorical exclusion requires a Class I assessment because of a potential impact to one of these important land resources, no public notice procedures apply in the course of completing the Class I assessment. When applicable to an action, as specified in Exhibit C of this subpart, these public notice procedures can apply at two distinct stages. The first stage, a preliminary notice, applies to any of the five important land resorces. The second stage, a final notice, applies only to actions that will impact floodplains or wetlands. For Class II actions, this final notice procedures must be combined with any applicable finding of no significant environmental impact, which is described in paragraph (b)(3) of this section.

(5) The public notice requirements associated with holding a public information meeting are specified in paragraph (c) of this section.

(c) *Public information meetings.* (1) Public information meetings will be held for an action undergoing an EIS as specified in § 1940.320 of this subpart. As part of the EIS process, a public information meeting will be held near the project site to discuss and receive comments on the draft EIS. It will be scheduled no sooner than 15 days after the release of the draft EIS. It will be announced in the same manner as the scoping meeting, and the list of parties receiving an individual notification will also be developed in the same manner. The meeting will be chaired by the State Director or a designee and will be fully recorded so that a transcript can be produced. The applicant will be requested to assist in obtaining a facility for holding the meeting. To the extent possible, this meeting will be combined with public meetings required by other involved agencies.

(2) Whenever a public information meeting is held as part of the completion of an environmental assessment, it will be scheduled, announced, and held in generally the same manner as a public information meeting for an EIS. However, a minimum of 7 days advance notice of the meeting is sufficient, and a transcript of the meeting will not be required. Rather a sum.mary of the meeting to include the major issues raised will be prepared by the FmHA official who chaired the meeting.

(d) *Distribution of environmental documents.* FmHA officials will promptly provide to interested parties, upon request, copies of environmental documents, including environmental assessments, draft and final environmental impact statements, and records of decision. Interested parties can request these materials from the appropriate State Director or approval

official for project activities and from the Administrator on other activities subject to environmental review.

§ 1940.332 Emergencies.

(a) *Action requiring EIS.* When an emergency circumstance makes it necessary to take an action with significant enviromental impact without observing the provisions of this subpart or the CEQ regulations, the Administrator will consult with CEQ about alternative arrangements before the proposed action is taken. It must be recognized that CEQ's regulations limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. For purposes of this subpart, an emergency circumstance is defined as one involving an immediate or imminent danger to public health or safety.

(b) *Action not requiring EIS.* When an emergency circumstance makes it necessary to take an action with apparent nonsignificant environmental impact without observing the provisions of this subpart or the CEQ regulations, the Administrator will be so notified. The Administrator reserves the authority to waive or amend all procedural aspects of this subpart relating to the preparation of environmental assessments including but not limited to—

(1) The applicant's submission of Form FmHA 1940–20,

(2) Public notice requirements and/or their associated comment periods,

(3) The timing of the assessment process, and

(4) The content of environmental review documents.

Alternative arrangements will be established on a case by case basis taking into account the nature of the emergency and the time reasonably available to respond to it. These alternative arrangements will, to the extent possible, attempt to achieve the substantive requirements of this subpart such as avoiding impacts to important land resources, when practicable, and minimizing potential adverse environmental impacts. In all cases, the environmental findings and determinations required for Class I and Class II assessments must be executed by the appropriate FmHA officials prior to approval of the action and be based upon the best information available under the circumstances and the prescribed alternative arrangements. (Refer to paragraph (a) of this section should the approval official for the action determine than an EIS is necessary.) Additionally, all applicable consultation and coordinating procedures required by law or regulation will be initiated with the appropriate Federal or State agency(s). Such procedures will be accomplished in the most expeditious manner possible and modified to the extent necessary and mutually agreeable between FmHA and the affected agency(s). The provisions of this paragraph are limited to the same emergency circumstances and scope of action as specified in paragraph (a) of this section.

§ 1940.333 Applicability to planning assistance.

The award of FmHA funds for the purpose of providing technical assistance or planning assistance will not be subject to any environmental review. However, applicants will be expected to consider in the development of their plans and to generally document within their plans.

(a) The existing environmental quality and the import environmental factors within the planning area, and

(b) The potential environmental impacts on the planning area of the plan as well as the alternative planning strategies that were reviewed.

§ 1940.334 Direct participation of State Agencies in the preparation of FmHA EISs.

FmHA may be assisted by a State Agency in the preparation of an EIS subject to the conditions indicated below. At no time, however, is FmHA relieved of its responsibilities for the scope, objectivity, and content of the entire statement or any other responsibility under NEPA.

(a) The FmHA applicant for financial assistance is a State Agency having statewide jurisdiction and responsibility for the proposed action;

(b) FmHA furnishes guidance to the State Agency as to the scope and content of the impact statement and participates in the preparation;

(c) FmHA independently evaluates the statement and rectifies any major deficiencies prior to its circulation by the Agency as an EIS;

(d) FmHA provides, early in the planning stages of the project, notification to and solicits the views of any land management entity (State or Federal Agency responsible for the management or control of public lands) concerning any portion of the project and its alternatives which may have significant impacts upon such land management entities; and

(e) If there is any disagreement on the impacts addressed by the review process outlined in paragraph (d) of this section, FmHA prepares a written assessment of these impacts and the views of the land management entities for incorporation into the draft impact statement.

§ 1940.335 Environmental review of FmHA proposals for legislation.

(a) As stated in § 1940.312(d)(4) of this subpart, all FmHA proposals for legislation will receive an environmental assessment. The definition of such proposal is contained in § 508.17 of the CEQ regulations.

(b) The environmental assessment and, when necessary, the EIS will be prepared by the responsible Agency staff that is developing the legislation.

(c) If an EIS is required, it will be prepared according to the requirements of § 1506.8 of the CEQ Regulations.

§ 1940.336 Contracting for professional services.

(a) Assistance from outside experts and professionals can be secured for the purpose of completing EISs, assessments, or portions of them. Such assistance will be secured according to the Federal and Agricultural Procurement Regulations contained in Chapters 1 and 4 of Title 48 of the Code of Federal Regulations.

(b) The contractor will be selected by FmFA in consultation with any cooperating agencies. In order to avoid any conflict of interest, contractors competing for the work will be required to execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project.

(c) The Administrator will provide the State Director with a proposed scope of work for use in securing such professional services.

(d) Applications will not be required to pay the costs of these professional services.

§ 1940.350 Office of Management and Budget (OMB) control number.

The collection of information requirements in this regulation has been approved by the Office of Management and Budget and has been assigned OMB control number 0575–0094.

3. Exhibit C is revised to read as follows:

Exhibit C—Implementation Procedures for the Farmland Protection Policy Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; and Departmental Regulation 9500–3, Land Use Policy

1. *Background.* The Subtitle I of the Agriculture and Food Act of 1981, Public Law 97–98, created the Farmland Protection Policy Act. The Act requires the consideration of alternatives when an applicant's proposal would result in the conversion of important farmland to nonagricultural uses. The Act also requires that Federal programs, to the extent practicable, be compatible with State, local government, and private programs and

policies to protect farmland. The Soil Conservation Service (SCS), as required by the Act, has promulgated implementation procedures for the Act at 7 CFR Part 658 which are hereafter referred to as the SCS rule. This rule applies to all federal agencies. The Departmental Regulation 9500-3, Land Use Policy (the Departmental Regulation), also requires the consideration of alternatives but is much broader than the Act in that it addresses the conversion of land resources other than farmland. The Departmental Regulation is included as Exhibit A to this Subpart and affects only USDA agencies.

2. *Implementation.* Each proposed lease or disposal of real property by FmHA and application for financial assistance or subdivision approval will be reviewed to determine if it would result in the conversion of a land resource addressed in the Act, Executive Orders, or Departmental Regulation and as further specified below. Those actions that are determined to result in the lease, disposal or financing of an existing farm, residential, commercial or industrial property with no reasonably foreseeable change in land use and those actions that solely involve the renovation of existing structures or facilities would require no further review.[1] Since these actions have no potential to convert land uses, this finding would simply be made by the preparer in completing the environmental assessment for the action. Also, actions that convert important farmland through the construction of on-farm structures necessary for farm operations are exempt from the farmland protection provisions of this Exhibit. For other actions, the following implementation steps must be taken:

a. Determines whether important land resources are involved. The Act comes into play whenever there is a potential to affect important farmland. The Departmental Regulation covers important farmland as well as the following land resources: prime forest land, prime rangeland, wetlands and floodplains. Hereafter, these land resources are referred to collectively as important land resources. Definitions for these land resources are contained in the Appendix to the Departmental Regulation. The SCS rule also defines important farmland for purposes of the Act. Since the SCS's definition of prime farmland differs from the Departmental Regulation's definition, both definitions must be used and if either or both apply, the provisions of this Exhibit must be implemented. It is important to note the definition of important farmland in both the SCS rule and the Departmental Regulation because it includes not only prime and unique farmland but additional farmland that has been designated by a unit of State or local government to be of statewide or local importance and such designation has been concurred in by the Secretary acting through SCS. In completing the environmental assessment or Form FmHA 1940-22, "Environmental Checklist For Categorical Exclusions," the preparer must determine if the project is either located in or will affect one or more of the land resources covered by the SCS rule or the Departmental Regulation. Methods for determining the location of important land resources on a project-by-project basis are discussed immediately below. As reflected several times in this discussion, SCS personnel can be of grant assistance in making agricultural land and natural resource evaluation, particularly when there is no readily available documentation of important land resources within the project's area of environmental impact. It should be remembered that FmHA and SCS have executed a Memorandum of Understanding in order to facilitate site review assistance. (See FmHA Instruction 2000-D, Exhibit A, available in any FmHA office.)

(1) *Important Farmland, Prime Forest Land, Prime Rangeland*—The preparer of the environmental review document will review available SCS important farmland maps to determine if the general area within which the project is located contains important farmland. Because of the large scale of the important farmland maps, the maps should be used for general review purposes only and not to determine if sites of 40 acres or less contain important farmland. If the general area contains important farmland or if no important farmland map exists for the project area, the preparer of the environmental review will request SCS's opinion on the presence of important farmland by completing Form AD-1006, "Farmland Conversion Impact Rating," according to its instructions, and transmitting it to the SCS local field office having jurisdiction over the project area. This request will also indicate that SCS's opinion is needed regarding the application to the project site of both definitions of prime farmland, the one contained within its rule and the one contained within the Departmental Regulation. SCS's opinion is controlling with respect to the former definition and advisory with respect to the latter. No request need be sent to SCS for an action meeting one of the exemptions contained in item number 2 of this exhibit.

(2) *Floodplain*—Review the most current Flood Insurance Rate Map or Flood Insurance Study issued for the project area by the Federal Emergency Management Administration (FEMA). Information on the most current map available or how to obtain a map free of charge is available by calling FEMA's toll free number 800-638-6620. When more specific information is needed on the location of a floodplain, for example, the project site may be near the boundary of a floodplain; or for assistance in analyzing floodplain impacts, it is often helpful to contact FEMA's regional office staff. Exhibit J of this subpart contains a listing of these regional offices and the appropriate telephone numbers.

If a FEMA floodplain map has not been prepared for a project area, detailed assistance is normally available from the following agencies: SCS, Corps of Engineers, U.S. Geological Survey (USGS), or appropriate regional or State agencies established for flood prevention purposes.

(3) *Wetlands*—The U.S. Fish and Wildlife Service (FWS) is presently preparing wetland maps for the nation. Each FWS regional office has a staff member called a Wetland Coordinator. These individuals can provide updated information concerning the status of wetland mapping by FWS and information on State and local wetland surveys. Exhibit K of this subpart contains a listing of Wetland Coordinators arranged by FWS regional office and geographical area of jurisdiction. If the proposed project area has not been inventoried, information can be obtained by using topographic and soils maps or aerial photographs. State-specific lists of wetland soils and wetland vegetation are also available from the FWS Regional Wetland coordinators. A site visit can disclose evidence of vegetation typically associated with wetland areas. Also, the assistance of SCS field staff in reviewing the site can often be the most effective means.

b. Findings

(1) *Scope*—Although information on the location and the classification of important land resources should be gathered from appropriate expert sources, as well as their views on possible ways to avoid or reduce the adverse effects of a proposed conversion, it must be remembered that it is FmHA's responsibility to weigh and judge the feasibility of alternatives and to determine whether any proposed land use change is in accordance with the implementation requirements of the Act and the Departmental Regulation. Consequently, after reviewing as necessary, the project site, applicable land classification data, or the results of consultations with appropriate expert agencies, the FmHA preparer must determine, as the second implementation step, whether the applicant's proposal:

(a) Is compatible with State, unit or local government, and private programs and policies to protect farmland; and

(b) Either will have not effect on important land resources; or

(c) If there will be direct or indirect conversion of such a resource, (i) whether practicable alternatives exist to avoid the conversion; and

(d) If there are no alternatives, whether there are practicable measures to reduce the amount of the conversion.

(2) *Determination of No Effect*—If the preparer determines that there is no potential for conversion and that the proposal is compatible, this determination must be so documented in the environmental assessment for a Class II action or the appropriate compliance blocks checked in the Class I assessment or Checklist for Categorical Exclusions based on whichever document is applicable to the action being reviewed.

(3) *Determination of Effect or Incompatibility*—Whenever the preparer determines that an applicant's proposal may result in the direct or indirect conversion of an important land resource or may be incompatible with State, unit of local government or private programs and policies to protect farmland, the following further steps must be taken.

(a) *Search for Practicable Alternatives*[2]—In consultation with the applicant and the

[1] See special procedures in item 3, of this Exhibit if the existing structure is located in a floodplain or wetland.

[2] When the action involves the disposal of real property determined not suitable for disposition to

Continued

interested public, the preparer will carefully analyze the availability of practicable alternatives that avoid the conversion or incompatibility. Possible alternatives include:

(i) The selection of an alternative site;

(ii) The selection of an alternative means to meet the applicant's objectives; or

(iii) The denial of the application, i.e., the no-action alternative.

When the resource that may be converted is important farmland, the preparer will follow the Land Evaluation and Site Assessment (LESA) point system contained within the SCS rule in order to evaluate the feasibility of alternatives. When the proposed site receives a total score of less than 160 points, no additional sites need to be evaluated. Rather than use the SCS LESA point system, the State Director has the authority to use State or local LESA systems that have been approved by the governing body of such jurisdiction and the SCS state conservationist. After this authority is exercised, it must be used for all applicable FmHA actions within the jurisdiction of the approved LESA system.

(b) *Inform the Public*—The Departmental Regulation requires us in Section 6, Responsibilities, to notify the affected landholders at the earliest time practicable of the proposed action and to provide them an opportunity to review the elements of the action and to comment on the action's feasibility and alternatives to it. This notification requirement only applies to Class I and Class II actions and not to categorical exclusions that lose their status as an exclusion for any of the reasons stated in § 1940.317(e) of this subpart. The notification will be published and documented in the manner specified in § 1940.331 of this subpart and will contain the following information:

(i) A brief description of the application or proposal and its location;

(ii) The type(s) and amount of important land resources to be affected;

(iii) A statement that the application or proposal is available for review at an FmHA field office (specify the one having jurisdiction over the project area); and

(iv) A statement that any person interested in commenting on the application or proposal's feasibility and alternatives to it may do so by providing such comments to FmHA within 30 days following the date of publication. (Specify the FmHA office processing the application or proposal for receipt of comments.)

Further consideration of the application or proposal must be delayed until expiration of the public comment period. Consequently, publication of the notice as early as possible in the review process is both in the public's and the applicant's interest. Any comments received must be considered and addressed in the subsequent Agency analysis of alternatives and mitigation measures. It should be understood that scheduling a public information meeting is not required but may be helpful based on the number of comments received and types of issues raised.

(c) Determine Whether Practicable Alternative Exists

(i) Alternative exists—If the preparer concludes that a practicable alternative exists, the preparer will complete step 2b(3)(e)(ii) of this exhibit and transmit the assessment for the approving official's review in the manner specified in § 1940.316 of this subpart. If the findings of this review are similar to the preparer's recommendation, FmHA will inform the applicant of such findings and processing of the application will be discontinued. Should the applicant still desire to pursue the proposal, the applicant is certainly free to do so but not with the further assistance of FmHA. Should the applicant be interested in amending the application to reflect the results of the alternative analysis, the preparer will work closely with the applicant to this end. Upon receipt of the amended application, the preparer must reinstitute this implementation process at that point which avoids the duplication of analysis and data collection undertaken in the original review process.

If the results of the approving official(s) review differs from the preparer's recommendations, the former will ensure that the findings are appropriately documented in step 2b(3)(e)(ii) of this exhibit and any remaining consideration given to mitigation measures, step 2b(3)(d) of this exhibit.

(ii) No Practicable Alternative Exists—On the other hand, if the preparer concludes that there is no practicable alternative to the conversion, the preparer must then continue with step 2b(b)3(d) of this exhibit, immediately below.

(d) *Search for Mitigation Measures*—Once the preparer determines that there is no practicable alternative to avoiding the conversion or incompatibility, including the no-action alternative, all practicable measures for reducing the direct and indirect amount of the conversion must be included in the application. Some examples of mitigation measures would include reducing the size of the project which thereby reduces the amount of the important land resoruce to be converted. This is a particularly effective mitigation measure when the resource is present in a small area, as is often the case with wetlands or floodplains. A corresponding method of mitigation would be to maintain the project size or number of units but decrease the amount of land affected by increasing the density of use. Finally, mitigation can go as far as the selection of an alternative site. For example, in a housing market area composed almost entirely of important farmland, any new proposed subdivision site would result in conversion. However, a proposed site within or contiguous to an existing community has much less conversion potential, especially indirect protential, than a site a mile or two from the community. The LESA system can also be used to identify mitigation measures when the conversion of important farmland cannot be avoided.

(e) *Document Findings*—Upon completion of the above steps, a written summary of the steps taken and the reasons for the recommendations reached shall be included in the environmental assessment along with either one of the following recommendations as applicable. The following example assumes that important farmland is the affected resource and that the inappropriate phrase within the brackets would be deleted.

(i) The application would result in the direct or indirect conversion of important farmland and [is/is not] compatible with State, unit of local government, or private programs and policies to protect farmland. It is recommended that FmHA determine, based upon the attached analysis, that there is no practicable alternative to this and that the application contains all practicable measures for reducing the amount of conversion (or limiting the extent of any identified incompatibility.)

(ii) The application would result in direct or indirect conversion of important farmland and [is/is not] incompatible with State, unit of local government, or private programs and policies to protect farmland. It is recommended that FmHA determine, based upon the attached analysis, that there is a practicable alternative to this action, and that processing of this application be discontinued.

(f) *Implement findings*—The completed environmental assessment and the Agency's determination of compliance with the Act, the Departmental Regulation and Executive orders will be processed and made according to § 1940.316 of this subpart. Whenever this determination is as stated in step 2b(3)(e)(i) above, the action will be so structured as to ensure that any recommended mitigation measures are accomplished. See § 1940.318(g) of this subpart. Whenever the determination is as stated in step 2b(3)(e)(ii) above, the applicant shall be so informed and processing of the application discontinued. Any further FmHA involvement will be as specified in Item 2b(3)(c)(i) of this exhibit.

3. *Special Procedures and Considerations When a Floodplain or Wetland Is The Affected Resource Under Executive Order 11988 and 11990.*

a. *Scope.*

(1) Geographical Area—The geographical area that must be considered when a floodplain is affected varies with the type of action under consideration. Normally the implementation procedures beginning in Item 2a of this Exhibit are required when the action will impact, directly or indirectly, the 100-year floodplain. However, when the action is determined by the preparer to be a critical action, the minimum floodplain of concern is the 500-year floodplain. A critical action is an action which, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Critical actions include but are not limited to actions which create or extend the useful life of the following facilities:

---

persons eligible for FmHA's financial assistance programs, the consideration of alternatives is limited to those that would result in the best price.

(a) Those facilities which produce, use, or store highly volatile, flammable, explosive, toxic or water-reactive materials;

(b) Schools, hospitals, and nursing homes which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury flood and storm events;

(c) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(d) Mulitfamily housing facilities designed primarily (over 50 percent) for handicapped individuals.

(2) Threshold of Impact—The Executive orders differ from the Act and the Departmental Regulation in that the Executive orders' requirements apply not only to the conversion of floodplains or wetlands but to any impacts upon them. Impacts are defined as changes in the natural values and functions of a wetland or floodplain. Therefore, should any portion of an action or its related activities require construction activities in a floodplain, for example, there would be an impact to a floodplain. The only exception to this statement is when the preparer determines that the locational impact is minor to the extent that the floodplain's or wetland's natural values and functions are not affected.

b. *Treatment of Existing Structures.*

(1) Non-FmHA-Owned Properties—The Executive orders can apply to actions that are already located in floodplains or wetlands; that is, where the conversion has already occurred. The implementation procedures beginning in item 2a of this exhibit must be accomplished for any action involving either the purchase of an existing structure or facility or the rehabilitation, renovation, or adaptive reuse of an existing structure or facility when the work to be done amounts to a substantial improvement. A substantial improvement means any repair reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not include (a) any project for improvement of a structure to comply with existing State or local health sanitary or safety code specifications which are solely necessary to assure safe living conditions or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(2) FmHA-Owned Real Property—The requirement in paragraph 3b(1) immediately above also applies to any substantial improvements made to FmHA-owned real property with the exception of the public notice requirements of this exhibit. Irrespective of any improvements, whenever FmHA real property located in a floodplain or wetland is proposed for lease or sale, the official responsible for the conveyance must determine if the property can be safely used. If not, the property should not be sold or leased. Otherwise, the conveyance must specify those uses that are restricted under identified Federal, State, and local floodplains or wetlands regulations as well as other appropriate restrictions, as determined by the FmHA official responsible for the conveyance, to the uses of the property by the leasee or purchaser and any successors, except where prohibited by law. Applicable restrictions will be incorporated into quitclaim deeds with the consent and approval of the Regional Attorney, Office of the General Counsel. Upon application by the owner of any property so affected and upon detetmination by the appropriate FmHA official that the condition for which a deed restriction was imposed no longer exists, the restriction clause may be released. A listing of any restrictions shall be included in any notices announcing the proposed sale or lease of the property. At the time of first inquiry, propsective purchasers must be informed of the property's location in a floodplain or wetland and the use restrictions that will apply. A written notification to this effect must be provided to the prospective purchaser who must acknowledge the receipt of the notice. See Item 3d of this exhibit and Subpart C of Part 1955 of this Chapter for guidance on the proper formats to be used with respect to notices and deed restrictions. The steps and analysis conducted to comply with the requirements of this paragraph must be documented in the enviromental review document for the proposed lease or sale.

c. *Mitigation measures.*

(1) Alternative Sites—As with the Act and the Departmental Regulation, the main focus of the review process must be to locate an alternative that avoids the impact to a floodplain or wetland. When this is not practicable, mitigation measures must be developed to reduce the impact which in the case of a floodplain or wetland can include finding another site, i.e., a safer site. The latter would be a site at a higher elevation within the floodplain and/or exposed to lower velocity floodflows.

(2) Nonstructural Mitigation Measures—Mitigation measurs under the Executive orders are intended to serve the following three purposes: reduce the risks to human safety, reduce the possible damage to structures, and reduce the disruption to the natural values and functions of floodplains and wetlands. More traditional structural measures, such as filing in the floodplain, cannot accomplish these three purposes and, in fact, conflict with the third purpose. Nonstructural flood protection methods, consequently, must be given priority consideration. These methods are intended to preserve, restore, or imitate natural hydrologic conditions and, thereby, eliminate or reduce the need for structural alteration of water bodies or their associated floodplains and wetlands. Such methods may be either physical or managerial in character. Nonstructural flood protection methods are measures which:

(a) Control the uses and occupancy of floodplains and wetlands, e.g., floodplain zoning and subidivison regulations;

(b) Preserve flooplain and wetland values and functions through public ownership, e.g., fee title, easements and development rights;

(c) Delay or reduce the amount of runoff from paved surfaces and roofed structures discharged into a floodway, e.g., construction of detention basins and use of flow restricting barriers on roofs;

(d) Maintain natural rates of infiltration in developed or developing areas, e.g., construction of seepage or recharge basins and minimization of paved areas;

(e) Protect steambanks and shorelines with vegetative and other natural cover, e.g., use of aquatic and water-loving woody plants;

(f) Restore and preserve floodplain and wetland values and functions and protect file life and property through regulation, e.g., flood-proofing building codes which require all structures and installations to be elevated on stilts above the level of the base flood; and

(g) Control soil erosion and sedimentation, e.g., construction of sediment basins, stabilization of exposed soils with sod and minimization of exposed soil.

(3) Avoid Filling in Floodplains—As indicated above, the Executive orders place a major emphasis on not filling in floodplains in order to protect their natural values and functions. Executive Order 11988 states "agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land."

d. *Additional Notification Requirement.*

(1) Final Notice—Where it is not possible to avoid an impact to a floodplain or wetland and after all practicable mitigation measures have been identified and agreed to by the prospective applicant, a final notice of the proposed action must be published. This notice will either be part of the notice required for the completion of a Class II assessment or a separate notice if a Class I assessment or an EIS has been completed for the action. The notice will be published and distributed in the manner specified in § 1940.331 of this subpart and contain the following information.

(a) A description of the proposed action, its location, and the surrounding areas;

(b) A description of the floodplain or wetland impacts and the mechanisms to be used to mitigate them;

(c) A statement of why the proposed action must be located in a floodplain or a wetland;

(d) A description of all significant facts considered in making this determination;

(e) A statement indicating whether the actions conform to applicable State or local floodplain protection standards; and

(f) A statement listing other involved agencies and individuals.

(2) Private Party Notification—For all actions to be located in floodplains or wetlands in which a private party is participating as an applicant, purchaser, or financier, it shall be the responsibility of the approving official to inform in writing all such parties of the hazards associated with such locations.

4. *The Relationship of the Executive Orders to the National Flood Insurance Program.*

The National Flood Insurance Program establishes the floodplain management criteria for participating communities as well as the performance standards for building in

floodplains so that the structure is protected against flood risks. As such, flood insurance should be viewed only as a financial mitigation measure that must be utilized only after FmHA determines that there is no practicable alternative for avoiding construction in the floodplain and that all practicable mitigation measures have been included in the proposal. That is, for a proposal to be located in the floodplain, it is not sufficient simply to require insurance. The Agency's flood insurance requirements are explained in Subpart B or Part 1806 of this chapter (FmHA Instruction 426.2). It should be understood that an applicant proposing to build in the floodplain is not even eligible for FmHA financial assistance unless the project area is participating in the National Flood Insurance Program.

4. Exhibit D is amended by adding a paragraph number 10 to read as follows:

Exhibit D—Implementation Procedures for the Endangered Species Act

* * * * *

10. In completing the above compliance procedures, particularly when consulting with the referenced agencies, formally or informally, the preparer of the environmental review document will request information on whether any Category I or Category II species may be present within the project area. These are candidate species; they are presently under consideration for listing under Section 4 of the Endangered Species Act. Category I species are those for which FWS currently has substantial data on hand to support the biological appropriateness of proposing to list the species as endangered or threatened. Currently, data are being gathered concerning essential habitat needs and, for some species, data concerning the precise boundaries of critical habitat designations. Development and publication of proposed rules on such species is anticipated. Category II comprises species for which information now in the possession of the FWS indicates that proposing to list the species as endangered or threatened is possibly appropriate but for which conclusive data on biological vulnerability and threat(s) are not currently available to presently support proposed rules. Whenever a Category I or II species may be affected, the preparer of the environmental review document will determine if the proposed project is likely to jeopardize the continued existence of the species. Whenever this determination is made, the same compliance procedures specified in paragraph 6 of this exhibit for a proposed species will be followed. The purpose of the requirements of this paragraph is to comply with the National Environmental Policy Act as well as Departmental Regulation 9500-4, Fish and Wildlife Policy, which specifies that USDA agencies will avoid actions which may cause a species to become threatened or endangered.

5. Exhibit G is removed. Exhibit L is redesignated as Exhibit G.

6. In Exhibit H the second undesignated paragraph following the title, the first undesignated paragraph of paragraph VIII, and paragraph IX are revised to read as follows:

Exhibit H—Environmental Assessment for Class II Actions

* * * * *

The preparer will consult as indicated in § 1940.318(b) of this subpart with appropriate experts from Federal, State, and local agencies, universities, and other organizations or groups whose views could be helpful in the assessment of potential impacts. In so doing, each discussion which is utilized in reaching a conclusion with respect to the degree of an impact will be summarized in the assessment as accurately as possible and include the name, title, phone number, and organization of the individual contacted, plus the date of contact. Related correspondence should be attached to the assessment.

* * * * *

VIII. Compliance with the Endangered Species Act

Indicate whether the project will either (1) affect a listed endangered or threatened species or critical habitat or (2) adversely affect a proposed critical habitat for an endangered or threatened species or jeopardize the continued existence of a proposed endangered or threatened species. This analysis will be conducted in consultation with the Fish and Wildlife Service and the National Marine Fisheries Service, when appropriate. Any formal or informal consultations conducted with these agencies as well as any State wildlife protection agency will also address impacts to Category I and Category II species. See Exhibit D of this subpart for specific implementation instructions.

* * * * *

IX. Compliance with Farmland Protection Policy Act, SCS's Implementation Rule, and Departmental Regulation 9500-3, Land Use Policy

Indicate whether the project will either directly or indirectly convert an important land resource(s) identified in the Act or Departmental Regulation, other than floodplains or wetlands which should be addressed below in Item X of this exhibit. If a conversion may result, determine if there is a practicable alternative to avoiding it. If there is no such alternative, determine whether all practicable mitigation measures are included in the project. Document as an attachment these determinations and the steps taken to inform the public, locate alternatives, and mitigate potential adverse impacts. See Exhbit C of this subpart for specific implementation guidance.

Exhibit I—[Amended]

7. Exhibit I is amended by adding to the end of the exhibit the following designated line for the date,

" _____ "

Date

Dated: April 23, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-21301 Filed 9-22-86; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-ANM-22]

Proposed Alteration of VOR Federal Airways V-444 and V-500, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of V-444 and V-500 located in the vicinity of Boise, ID. The Boise very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is being relocated 2.4 nautical miles east of its present location. This action would alter the descriptions of all airways affected by the VORTAC relocation.

DATES: Comments must be received on or before November 24, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 86-ANM-22, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental,

and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ANM–22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date from comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V–444 and V–500 located in the vicinity of Boise, ID. The Boise VORTAC is being relocated approximately 2.4 nautical miles east of its present location, and all affected airway descriptions would be amended where necessary. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

2. Section 71.123 is amend as follows:

V–444 [Revised]

From Burley, ID, via INT Burley 323 °T(305°M) and Boise, ID, 104°T(096°M) radials; 25 miles 95 MSL, 25 miles 90 MSL, 23 miles; Boise; Baker, OR. From Walla Walla, WA, 22 miles, 48 miles 45 MSL; to Spokane, WA.

V–500 [Revised]

From Portland, OR, via Newberg, OR; 41 miles 70 MSL, Kimberly, OR; 30 miles, 71 miles 105 MSL, Boise, ID; 23 miles, 25 miles 90 MSL, 25 miles 95 MSL, 22 miles, 26 miles 70 MSL, to Pocatello, ID.

Issued in Washington, DC, on September 17, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–21451 Filed 9–22–86; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 73

[Airspace Docket No. 86–ASO–20]

Proposed Establishment of Restricted Areas R–3008 A, B, and C—Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Restricted Areas R–3008 A, B, and C Grand Bay Weapons Range, GA, near Moody Air Force Base at the request of the U.S. Air Force. The proposed restricted areas will increase combat readiness without a concomitant increase in budgetary requirements because of the close proximity of the range to Moody AFB.

DATE: Comments must be received on or before November 7, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 86–ASO–20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9247.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ASO–20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed

in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Send comments on environmental and land use aspects to: Headquarters Tactical Air Command/DEEV, Langley AFB, VA 23665–5001, ATTN: Mr. Roy Barker (Telephone (804) 764–4430).

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish Restricted Areas R–3008 A, B, and C Grand Bay Weapons Range, GA, near Moody AFB at the request of the Air Force. The proposed restricted areas will increase combat tasking per mission and combat readiness because of the proximity of the range to Moody AFB. The proposed R–3008A and a portion of R–3008B lie within U.S Government-owned property under title to the Department of the Air Force. The Air Force has agreed to the following conditions in consideration for establishing the restricted areas:

1. All VFR traffic patterns at Moody AFB shall remain clear of Interstate Highway 75 VFR flyway which is defined as being two statute miles either side of Interstate Highway 75.

2. The integrity of the VOR Runway 17 Standard Instrument Approach at Valdosta, GA, Regional Airport shall be maintained when the Valdosta weather has a reported ceiling below 3,000 feet above ground level (AGL) and/or the visibility is less than three miles.

3. All ordnance delivery patterns developed for the weapons range shall provide for appropriate clearance over state and Federal highways.

4. Agricultural spraying and aerial access to private and public use lands shall be accommodated on a real-time basis.

5. The Grand Bay Weapons Range shall be closed and the restricted areas returned to the controlling agency when the reporting weather at Moody AFB is below 3,000 feet AGL and/or the visibility is less than three miles.

6. Due to the proximity of the Grand Bay Weapons Range to Moody AFB, the RAPCON Watch Supervisor shall have the authority to close the range and return the airspace to the controlling agency any time traffic loads or emergency situations dictate. Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 73

Aviation safety, restricted areas.

The Proposed Amendment

PART 73—[AMENDED]

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

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

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

2. Section 73.30 is amended as follows:

R–3008A Grand Bay Weapons Range, GA [New]

Boundaries. Beginning at lat. 30°57'35 "N., long. 83°11'05"W.; to lat. 30°59'12" N., long. 83°10'00" W.; to lat. 30°59'12" N., long. 83°07'53" W.; to lat. 30°58'30" N., long. 83°07'53" W.; to lat. 30°58'30" N., long. 83°07'45" W.; to lat. 30°57'43" N., long. 83°07'45" W.; to lat. 30°57'43" N., long. 83°08'05" W.; to lat. 30°56'55" N., long. 83°08'05" W.; to lat. 30°56'23" N., long. 83°08'43" W.; to lat. 30°56'50" N., long. 83°10'00" W.; to the point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Air Force, 347 Tactical Fighter Wing, Moody AFB, GA.

R–3008B Grand Bay Weapons Range, GA [New]

Boundaries. Beginning at lat. 30°59'12" N., long. 83°10'00" W.; to lat. 31°02'00" N., long. 83°09'00"W.; to lat. 31°01'30" N., long. 83°06'00" W.; to lat. 30°54'30" N., long. 83°06'00" W.; to lat. 30°53'30" N., long. 83°09'00" W.; to lat. 30°56'50" N., long. 83°10'00" W.; to lat. 30°56'23" N., long. 83°08'43" W.; to lat. 30°56'55" N., long. 83°08'05" W.; to lat. 30°57'43" N., long. 83°08'05" W.; to lat. 30°57'43" N., long. 83°07'45" W.; to lat. 30°58'30" N., long. 83°07'45" W.; to lat. 30°58'30" N., long. 83°07'53" W.; to lat. 30°59'12" N., long. 83°07'53" W.; to the point of beginning.

Designated altitudes. 100 feet AGL to 10,000 feet MSL.

Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Air Force, 347 Tactical Fighter Wing, Moody AFB, GA.

R–3008C Grand Bay Weapons Range, GA [New]

Boundaries. Beginning at lat. 31°04'00" N., long. 83°01'00" W.; to lat. 31°04'00" N., long. 83°08'00" W.; to lat. 31°02'00" N., long. 83°09'00" W.; to lat. 31°01'30" N., long. 83°06'00" W.; to lat. 30°54'30" N., long. 83°06'00" W.; to lat. 30°53'30" N., long. 83°09'00" W.; to lat. 30°51'00" N., long. 83°08'00" W.; to lat. 30°51'00" N., long. 83°01'00" W.; to the point of beginning.

Designated altitudes. 500 feet AGL to 10,000 feet MSL, excluding that airspace below 1,500 feet AGL within one nautical mile of Lakeland, GA. (One nautical mile radius centered at lat. 31°02'30" N., long. 83°04'15"W.) Time of designation. 0700–1900 local time, Monday–Friday; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Air Force, 347 Tactical Fighter Wing, Moody AFB, GA.

Issued in Washington, DC, on September 17, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–21452 Filed 9–22–86; 8:45 am]

BILLING CODE 4910–13–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to the Cayman Islands

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to an agreement with the postal administration of the Cayman Islands, the Postal Service intends to begin Express Mail International Service with the Cayman Islands at postage rates indicated in the tables below.

DATE: Comments must be received on or before October 22, 1986.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West SW., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410 (a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to the Cayman Islands at the rates indicated in the table below.

Lists of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552[a], 39 U.S.C. 401, 404, 407, 408.

THE CAYMAN ISLANDS EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including		On demand service [3] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	34.80	2	26.80
3	38.60	2	30.60
4	42.40	4	34.40
5	46.20	5	38.20
6	50.00	6	42.00
7	53.80	7	45.80
8	57.60	8	49.60
9	61.40	9	53.40
10	65.20	10	57.20
11	69.00	11	61.00
12	72.80	12	64.80
13	76.60	13	68.60
14	80.40	14	72.40
15	84.20	15	76.20
16	88.00	16	80.00
17	91.80	17	83.80

THE CAYMAN ISLANDS EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service [1] [2] up to and including		On demand service [3] up to and including	
Pounds	Rate	Pounds	Rate
18	95.60	18	87.60
19	99.40	19	91.40
20	103.20	20	95.20
21	107.00	21	99.00
22	110.80	22	102.80
23	114.60	23	106.60
24	118.40	24	110.40
25	122.20	25	114.20
26	126.00	26	118.00
27	129.80	27	121.80
28	133.60	28	125.60
29	137.40	29	129.40
30	141.20	30	133.20
31	145.00	31	137.00
32	148.80	32	140.80
33	152.60	33	144.60
34	156.40	34	148.40
35	160.20	35	152.20
36	164.00	36	156.00
37	167.80	37	159.80
38	171.60	38	163.60
39	175.40	39	167.40
40	179.20	40	171.20
41	183.00	41	175.00
42	186.80	42	178.80
43	190.60	43	182.60
44	194.40	44	186.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–21498 Filed 9–22–86; 8:45 am]

BILLING CODE 7710–12–M

Notices

Federal Register
Vol. 51, No. 184
Tuesday, September 23, 1986

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

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Richardson Creek Watershed, Anson and Union Counties, NC; Environmental Impact Statement

AGENCIES: North Carolina Department of Natural Resources and Community Development and the United States Department of Agriculture, Soil Conservation Service.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guideline (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Division of Soil and Water Conservation, North Carolina Department of Natural Resources and Community Development and the Soil Conservation Service, United States Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Richardson Creek Watershed, Anson and Union Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: William E. Austin, Director, Division of Soil and Water Conservation, North Carolina Department of Natural Resources and Community Development, P.O. Box 27687, Raleigh, North Carolina 27611, Telephone 919/733-2302 or Bobbye J. Jones, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 535, Fifth Floor Federal Building, Raleigh, North Carolina 27601, Telephone 919/856-4110.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bobbye J. Jones, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technial and finanical assistance to apply land treatment measures on 32,050 acres of cropland.

The Notice of A Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting William E. Austin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

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

Dated: September 15, 1986.

Bobbye J. Jones,

State Conservationist.

[FR Doc. 86-21453 Filed 9-22-86; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-012]

Hot-Rolled Carbon Steel Plate in Coil From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by two exporters and an importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on hot-rolled carbon steel plate in coil from Brazil that was in effect prior to October 1, 1984. The review covers the three known exporters of this merchandise to the United States and the period June 10, 1983 through September 30, 1984. The review indicates the existence of dumping margins during the period.

One firm made no shipments during the period and two firms failed to respond to the Department's questionnaire. Where firms failed to respond to our questionnaire, we used the best information available for assessment purposes.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

On August 21, 1985, the Department published (50 FR 33815) the final results of an administrative review and the revocation of the order, effective October 1, 1984. Therefore, no antidumping duties cash deposits are required on this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 23, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984 the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 10692) an antidumping duty order on hot-rolled carbon steel plate in coil from Brazil. In accordance with § 353.53a(a) of the Commerce Regulations, COSIPA and USIMINAS, two exporters, and Hansa World Cargo Service, Inc., an importer, requested an administrative review. The Department published in the **Federal Register** (50 FR 48825, November 27, 1985) a notice of initiation of an antidumping duty administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Brazilian hot-rolled carbon steel plate in coil, whether or not corrugated or crimped and not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 8 inches in width and over 0.1875 inch in thickness. This merchandise is currently classifiable under item 607.6610 of the Tariff Schedules of the United States Annotated.

The review covers the three known Brazilian exporters of hot-rolled carbon steel plate in coil to the United States and the period June 10, 1983 through September 30, 1984.

COSIPA did not export Brazilian hot-rolled carbon steel plate in coil to the United States from June 1983 through September 1984. CSN and USIMINAS failed to respond to our questionnaire. For those non-responsive firms we used the best information available for assessment purposes. The best information available was the most recent antidumping duties cash deposit rate for each of those firms.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period June 10, 1983 through September 30, 1984:

Manufacturer/exporter	Margin (percent)
CSN	52.57
USIMINAS	50.55

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication on this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

The Department revoked the antidumping duty order on hot-rolled carbon steel plate in coil from Brazil, effective October 1, 1984 (50 FR 33815, August 21, 1985). This administrative review, covering the period June 10, 1983 through September 30, 1984, does not affect the revocation of the antidumping duty order. Therefore, we will instruct the Customs Service to continue to liquidate entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: September 17, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-21505 Filed 9-22-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-014]

Hot-Rolled Carbon Steel Sheet From Brazil; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by an importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on hot-rolled carbon steel sheet from Brazil that was in effect prior to October 1, 1984. The review covers two of the three known exporters of this merchandise to the United States and the period April 26, 1984 through September 30, 1984. The review indicates the existence of dumping margins during the period.

Both firms failed to respond to the Commerce Department's questionnaire. Therefore, we used the best information available for assessment purposes.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

On August 21, 1985, the Department publishes (50 FR 33814) the final results of an administrative review and the revocation of the order, effective October 1, 1984. Therefore, no antidumping duties cash deposits are required on this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 23, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 35536) an antidumping duty order on hot-rolled carbon steel sheet from Brazil.

In accordance with § 353.53a(a) of the Commerce Regulations, Hansa World Cargo Service, Inc., an importer, requested an administrative review covering two of the three known exporters of the merchandise. The Department published in the **Federal Register** (50 FR 48825, November 27, 1985) a notice of initiation of an antidumping duty administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Brazilian hot-rolled carbon steel sheet. Hot-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and 0.1875 inch or more in thickness, over 8 inches in width and pickled, as currently classifiable under item 607.8320 of the Tariff Schedules of the United States Annotated ("TSUSA"), or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently classifiable under items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the TSUSA. This description of hot-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA.

The review covers two of the three known Brazilian exporters of hot-rolled carbon steel sheet to the United States and the period April 26, 1984 through September 30, 1984.

Both firms failed to respond to our questionnaire. Therefore, we used the best information available for assessment purposes. The best

information available was the most recent antidumping duties cash deposit rate for each of the firms.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 26, 1984 through September 30, 1984:

Manufacturer/exporter	Margin (percent)
COSIPA	18.03
USIMINAS	18.15

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

The Department revoked the antidumping duty order on hot-rolled carbon steel sheet from Brazil, effective October 1, 1984 (50 FR 33814, August 21, 1985). This administrative review, covering the period April 26, 1984 through September 30, 1984, does not affect the revocation of the antidumping duty order. Therefore, we will instruct the Customs Service to continue to liquidate entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: September 17, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-21506 Filed 9-22-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-006]

Steel Jacks From Canada; Preliminary Results of Antidumping Duty Amdinistrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by the respondent and the petitioner, the Department of Commerce has conducted an administrative review of the antidumping finding on steel jacks from Canada. The review covers the sole manufacturer of this merchandise covered by the antidumping finding and the period September 1, 1983 through August 31, 1985. The review indicates the existance of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United State price and foreign market value. J.C Hallman failed to respond to our questionnaire. As a result, we used the best information available for assessment and estimated antidumping duties eash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 23, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5222/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1985, the Department of Commerce ("The Department") published in the **Federal Register** (50 FR 42577) the final results of its last administrative review of the antidumping finding on steel jacks from Canada (31 FR 11974, September 13, 1966). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, the petitioner, Bloomfield Mfg. Co., and the one respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We subsequently published a notice of initiation of the antidumping duty administrative review on May 30, 1986 (51 FR 19580).

Scope of the Review

Imports covered by the review are shipments of steel jacks from Canada, currently classifiable under item number 664.1057 of the Tariff Schedules of the United States Annotated. The review covers J.C. Hallman Mfg. Co., Ltd., the sole manufacturer covered by the finding, and the period September 1, 1983 through August 31, 1985.

J.C. Hallman failed to repond to the Department's antidumping questionnaire. The Department consequently used the best information available for assessment and estimated antidumping duties cash deposit purposes. The best information available was the higher of the two rates from the last review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that for the period September 1, 1983, through August 31, 1985, a margin of 28.35 percent exists.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by §353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumpting duties of 28.35 percent shall be required.

This deposit requirement is effective for all shipments of steel jacks manufactured by J.C. Hallman Mfg. Co., Ltd. entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: Sptember 16, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-21507 Filed 9-22-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Application for Marine Mammals Permit; Gerald G. Joyce (p385)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Gerald G. Joyce.

b. Address: 7217 12th Avenue, NE, Seattle, Washington 98115.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: minke whale *(Balaenoptera acutorostrata)* 100.

4. Type of Take: Harassment of up to 100 Minke whales while attempting to radio-tag up to 20.

5. Location of Activity: Antarctic waters.

6. Period of Activity: December 23, 1986 to February 17, 1987.

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 20235, within 30 days of the publication of this notice. 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 in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue, NW., Washington, DC; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: September 17, 1986.

Richard B. Roe,

Director Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-21531 Filed 9-22-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Proposed Permit Modification No. 4; NMFS, Southwest Fisheries Center (P77W)

Notice is hereby given that the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, has requested a modification to Permit No. 347 issued on July 25, 1981 (46 FR 38950), as modified on February 7, 1983 (48 FR 6381), September 1, 1983 (48 FR 40933) and January 28, 1986 (51 FR 4409) under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to increase the take of California sea lions *(Zalophus californianus)* for mark/recapture studies from 3900 to 5100 and to extend the expiration date of the Permit to December 31, 1988.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above modification are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 18, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-21529 Filed 9-22-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF EDUCATION

New Awards Under the Postsecondary Education Programs for Handicapped Persons—Demonstration Projects for Fiscal Year 1987 (CFDA No.: 84.078C); Invitation To Submit Applications

Purpose: Provides grants to support model demonstrations of specially adapted projects that facilitate and encourage postsecondary education of handicapped individuals with their nonhandicapped peers.

Deadline for transmittal of applications: December 8, 1986.

Deadline for intergovernmental review comments: February 9, 1987.

Applications available: October 3, 1986.

Available funds: $1,000,000.

Estimated range of awards: $75,000-$125,000.

Estimated average size of awards: $100,000.

Estimated number of awards: 10.

Project period: 12, 24, or 36 months.

Applicable regulations: (a) Postsecondary Education Programs for Handicapped Persons Regulations, 34 CFR Part 338, and (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Priority: (a) In accordance with 34 CFR 338.30(b), the Secretary will award grants for model projects of supportive services to individuals with handicapping conditions other than deafness that focus on specially adapted or designed educational programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers, as described in 34 CFR 338.10(a)(2)(i).

In accordance with 34 CFR 75.105(c)(3)(i), the Secretary will give an absolute preference to each application that addresses this priority.

(b) Within this priority, pursuant to 34 CFR 75.105(c)(1), the Secretary urges the submission of applications for projects which focus on individuals with specific learning disabilities. Projects in vocational-technical schools, community colleges, and other two-year postsecondary institutions are especially invited.

However, applications that meet the invitational priority described in this paragraph will not receive a competitive preference over other applications that propose model projects that meet the absolute priority described in paragraph (a).

Applications or information contact: Dr. Joseph Rosenstein, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4092 Switzer, Washington, DC 20202. Telephone: (202) 732–1176.

Program authority: 20 U.S.C. 1424a.

Dated: September 17, 1986.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 86–21484 Filed 9–22–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Mega Hydro, Inc., et al.; Availability of Environmental Assessment and Finding of No Significant Impact

September 16, 1986.

	Project No.
Mega Hydro, Inc.	5756–005
Bethel Mills, Inc.	9826–000
Olivehain Municipal Water District	9888–000
Cook Electric, Inc.	3407–004
Boise-Kuna Irrigation District, New York Irrigation, Nampa & Meridian Irrigation District, Wilder Irrigation District, & Big Bend Irrigation District	4656–002
Northern Wasco County People's Utility District	7270–000
Kings Falls Power Corporation	7352–002
Colusa County	8017–001
Lower Village Water Power Company	9088–000
The City of Colorado Springs	9195–000

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project Name	State	Water Body	Nearest Town or County	Applicant
Exemptions					
5756–005	Rock Creek Power	CA	Rock Creek	Huntington Lake	Mega Hydro, Inc.
9826–000	Bethel Mills	VT	Third Branch of the White River	Bethel	Bethel Mills, Inc.
9888–000	Roger Miller Hydro	CA	Roger Miller Conduit	Encinitas	Olivenhain Municipal Water District.
Licenses					
3407–004	Magic Dam	ID	Big Wood River	Shoshone	Cook Electric, Inc.
4656–002	Arrowrock Dam	ID	Bosie River	Boise	Boise-Kuna Irrigation District, New York Irrigation, Nampa & Meridian Irrigation District, Wilder Irrigation District, & Big Bend Irrigation District.
7270–000	White River	OR	White River	Maupin	Northern Wasco County People's Utility District.
7352–002	Kings Falls Power	NY	Deer River	Copenhagen & Deer River	Kings Falls Power Corporation.
8017–001	East Park Dam	CA	East Park Reservoir/Little Stoney Creek.	Stonyford	Colusa County.
9088–000	Lower Village	NH	Sugar River	Claremont	Lower Village Water Power Company.
9195–000	Stanley Canyon	CO	West Monument Creek	Colorado Springs	The City of Colorado Springs.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington DC 20426.

Kenneth F. Plum,

Secretary

[FR Doc. 86–21513 Filed 9–22–86; 8:45 am]

BILLING CODE 6717–01–M

Oil Pipeline Tentative Valuation

September 19, 1986.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1982 Basic Report

Valuation Docket; No. PV–1489–000

Northern Rockies Pipe Line Company, P.O. Box 4239, Houston, Texas 77210.

On or before October 28, 1986, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "rules of practice and procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service

be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 86-21511 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9947-001 et al.]

Robbins Lumber, Inc., et al; Surrender of Preliminary Permits

September 15, 1986.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Robbins Lumber, Inc.

[Project No. 9947-001]

Take notice that the Robbins Lumber, Inc., the permittee for the Robbins Project No. 9947, located on the St. George River in Waldo County, Maine, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 27, 1986, and would have expired on May 31, 1989. The permittee states that analysis of the Robbins Project did not indicate feasibility for development.

The permittee filed the request on August 25, 1986.

2. Ernest R. Field and Robert A. Bernhard

[Project No. 9376-001]

Take notice that Ernest R. Field and Robert A. Bernhard, Permittee for the proposed Mississinewa Hydro Project No. 9376, has requested that its preliminary permit be terminated. The permit was issued on December 20, 1985, and would have expired November 30, 1988. The project would have been located on the Mississinewa River near Peru, Miami County, Indiana. The Permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The Permittee filed the request on September 5, 1986.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb

Secretary.

[FR Doc. 86-21509 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-945-000 et al.]

Multitrade of Martinsville, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

September 17, 1986.

Take notice that the following filings have been made with the Commission.

1. Multitrade of Martinsville, Inc.

[Docket No. QF86-945-000]

On September 8, 1986, Multitrade of Martinsville, Inc. (Applicant), of P.O. Box 717, Ridgeway, Virginia 24148, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in the City of Martinsville, Virginia. The facility will consist of a steam generator and one extraction/condensing steam turbine generator. The primary energy sources for the facility will be biomass in the form of sawdust and coal. The net electric power production capacity of the facility will be 19 MW. Thermal energy recovered from the facility will be used by the Tultex Corporation in fabric dyeing and drying process. Installation of the facility is scheduled to begin in December 1986.

2. PRS (Derry), Inc.

[Docket No. QF86-657-001]

On September 3, 1986, PRS (Derry), Inc. (Applicant), of 125 Cambridge Park Drive, Cambridge, Massachusets 02140, submitted for filing an application for certification 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 Derry, New Hampshire. The facility will consist of nine internal combustion engine generator sets. The primary energy source will be municipal solid waste. The net electric power production capacity of the facility will be 9.8 MW.

3. Pagnotti Enterprises, Inc.—Spring Mountain Facility,—McAdoo, PA

[Docket No. QF86-927-001]

On September 5, 1986, Pagnotti Enterprises Inc. (Applicant), of 800 Exeter Avenue, West Pittston, Pennsylvania 18643, submitted for filing an application for certification 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 McAdoo, Carbon County, Pennsylvania. The facility will consist of a circulating fluidizing bed combustion boiler, extraction/condensing steam turbine generator, and related auxiliary equipment. The primary energy source for the facility will be "waste" in the form of anthracite culm. The net electric power production capacity of the facility will be 55 megawatts.

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, NW, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-21508 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-698-000 et al.]

Amoco Production Co. et al.; Applications for Abandonment and Blanket Certificate With Pre-Granted Abandonment Authorization

September 17, 1986.

Take notice that each of the Applicants listed herein have filed applications pursuant to section 7 of the Natural Gas Act for authorization to

abandon service or for a blanket limited-term certificate with pre-granted abandonment authorization to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86–698–000 (G–7518), B, Aug. 22, 1986 [1].	Amoco Production Company, P.O. Box 5910–A Chicago, IL 60680.	Arkla Energy Resources, a division of Arkla, Inc., Greenwood-Waskom Field Caddo Parish, Louisiana, and Harrison County, Texas [2].		
CI86–698–000 (G–10923), B, Aug. 22, 1986 [1].	....do	Arkla Energy Resources, a division of Arkla, Inc., Simsboro Field, Lincoln Parish, Louisiana [2].		
CI86–698–000 (CI63–749), B, Aug. 22, 1986 [1].	....do	Arkla Energy Resources, a division of Arkla, Inc., Cheniere Field, Ouachita Parish, Louisiana [2].		
CI86–699–000 A, Aug. 22, 1986 [1]	....do	....do [3]		
CI86–701–000, B, Aug. 25, 1986	Franks Petroleum Inc., *et al.* [4] P.O. Box 7665, Shreveport, LA 71137–7665.	United Gas Pipe Line Company, West Bryceland Field, Bienville, Parish, Louisiana.	([5])	
CI86–702–000, B, Aug. 25, 1986	....do[4]	....do	([6])	
CI86–713–000, B, Sept. 2 1986	Reading & Bates Petroleum Co., 3200 Mid-Continent Tower, 401 S. Boston, Tulsa, Oklahoma 74103.	Trunkline Gas Company, Block 392, Eugene Island Area, Offshore Louisiana.	([7])	
CI86–720–000, B, Sept. 8 1986	Crystal Oil Company, P.O. Box 21101, Shreveport, Louisiana 71120.	Texas Gas Transmission Corporation, Shongaloo Field, Webster Parish, Louisiana.	([8])	

[1] Additional information filed September 10, 1986.

[2] Applicant requests authorization to abandon for an indefinite term the sale of excess gas to Arkla under three contracts pursuant to a release agreement between the parties dated July 28, 1986. The release agreement is for a primary term extending until January 1, 1988, and continuing on a month to month basis until terminated by either party. Applicant states that the sales are covered by respective contracts dated September 16, 1974, September 16, 1974, and July 29, 1986, on file with the Commission as Applicant's FERC Gas Rate Schedule Nos. 77, 167, and 470 and certificated in Docket Nos. G–7518, G–10923, and CI63–749. Applicant states that it is subject to substantially reduced takes without payment and that under this release agreement Arkla obtains take-or-pay relief in exchange for the temporary release of gas not required by Arkla to meet its market demand. Applicant states that deliverability from its working interest in the subject fields and the applicable maximum lawful prices are as follows:

Field	MCF/D	NGPA Classification (percent)
Greenwood-Waskom	2,000	85—Sec. 104 (Replacement Large Producer) 13—Sec 104 (Post-1974) 2—Sec. 102
Simsboro	1,000	85—Sec. 104 (Replacement Large Producer) 15—Sec. 103(b)(1) and § 108
Cheniere	4,100	77—Sec. 106(a) 23—Sec. 103(b)(1)

Applicant states that it expects to make sales in the interstate spot market and has therefore filed for a blanket certificate in Docket No. CI86–699–000.

[3] Applicant requests blanket certificate authorizaton for an indefinite term with pre-granted abandonment to make sales for resale in interstate commerce of gas subject to the abandonment requested in Docket No. CI86–698–000.

[4] This announcement is requested for all parties for whom Franks Petroleum Inc. operates including B&D Corporation, Osias Biller, L. R. Brammer, Jr., Exxon Company (East Texas Division), Lucien R. Hodges, G. E. Huggs, Kelly Oil Acquisition, LPC Energy, Inc., Joseph M. Moore, Walter R. Neill, Petrofunds, Inc., Alf R. Thompson, Raymond K. Thompson, White-Parrino Resources Partnership, Basic Earth Science Systems, Inc., D. S. Kendrick, Jr., Vintage Petroleum, Inc. and John Franks.

[5] Applicant, a small producer certificate holder in Docket No. CS71–1014, requests authorization to abandon a sale of gas for a three-year period to United Gas Pipe Line Company. Applicant states that United has ceased taking gas without any compensating payment under their gas sales contract dated January 24, 1967 (United Contract No. 4683). Applicant states that the wells and their current deliverability are as follows:

Well name	NGPA classification	Current deliverability MCFD
HOSS B SUO; Highland Timber No. 1	104 Flowing—Small Producer	172
HOSS B SUJ; D.R. Cummings No. 1–D	104 Flowing—Small Producer	179
HOSS B SUK; J.F. Thrash No. 1	104 Flowing—Small Producer	599
HOSS B SUK; J.F. Thrash No. 1–D	104 Flowing—Small Producer	489

Applicant states that only a portion of the acreage included in the units for the above wells is dedicated to United Contract No. 4683. The balance of the acreage in the units for these wells is subject to United Contract No. 5017 for which a separate application for abandonment was filed in Docket No. CI86–702–000.

Applicant also states that the primary term of the contract expires January 24, 1987, but that it has given United written notice of cancellaton effective concurrently with any issuance of abandonment authorization herein. Applicant proposes to market the gas to another purchaser.

[6] Applicant, a small producer certificate holder in Docket No. CS71–1014, requests authorizaton to abandon a sale of gas for a three-year period to United Gas Pipe Line Company. Applicant states that United has ceased taking gas, has not made any payments, and is presently not making any payments to Applicant for gas not taken under their gas sales contract dated September 1, 1970 (United Contract No. 5017). Applicant states that the wells and their current deliverability are as follows:

Well name	NGPA classification	Current deliverability MCFD
HOSS B SUO; Highland Timber No. 1	104 Flowing—Small Producer	712
HOSS A SUJ; D.R. Cummings No. 1-D	104 Flowing—Small Producer	179
HOSS B SUK; J.F. Thrash No. 1	104 Flowing—Small Producer	599
HOSS A SUK; J.F. Thrash No. 1-D	104 Flowing—Small Producer	489

Applicant states that only a portion of the acreage included in the units for the above wells is subject to United Contract No. 5017. The balance of the acreage is subject to United Contract No. 4683 for which a separate application for abandonment was filed in Docket No. CI86-701-000. Applicant also states that the primary term of the contract expires September 1, 1990, but that it has given United written notice of cancellation effective concurrently with issuance of any abandonment authorization herein. Applicant proposes to market the gas to another purchaser.

[7] Applicant, a small producer certificate holder in Docket No. CS71-522, requests authorization to abandon for a three-year period gas in excess of Trunkline's needs. Applicant states that Trunkline has agreed to release quantities of surplus gas that they are unable to take. Applicant states that Trunkline advised that projected takes for the next year will be between 2%-5%. Applicant indicates it would be subject to substantially reduced takes and severe curtailment of cash flow if the application does not receive expeditious consideration. Applicant states that the average flow rate attributable to its interest in the wells involved (A-1, A-6D, A-8 and A-9 wells) is .9863 MMcf/D. Applicant proposes to sell released volumes to Hadson Gas Systems, Inc. and/or Seagull Energy Corporation.

[8] Applicant, a small producer certificate holder in Docket No. CS71-530, requests authorization to abandon a sale of gas to Texas Gas Transmission Corporation. Applicant states that by letter dated July 24, 1986, Texas Gas nominated zero Mcf/day effective July 23, 1986, until further notice. Applicant states that by letter agreement executed June 10, 1986, Texas Gas released Applicant from all terms under the July 15, 1960, contract effective with Commission authorization herein, and Applicant released Texas Gas from the obligation to pay for gas not purchased. Applicant's records indicate that Texas Gas has not paid for any gas not taken under its contractual obligations. Applicant states that NGPA classification of the wells and the current deliverability are as follows:

Well name	NGPA classification	Current deliverability MCF/D
J.W. Atkins No. 1	104—1973-1974 Biennium (Small Producer)	110
Sale No. 1	104—Post-1974	110
C.E. Burns No. 1	104—Post-1974	45
Cortez No. 1	106(a)—Interstate Rollover	10
Total		275

Applicant desires to sell the gas to an alternate market.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-21512 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-446-011]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 16, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 2, 1986 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 the following sheet:

Eighty-first Revised Sheet No. 14

Pursuant to the Stipulation and Agreements filed November 17, 1983 (Phase I Agreement) and March 16, 1984 (Phase IA Agreement) in *Boundary Gas, Inc. et al.*, Docket Nos. CP81-107-000 *et al.* and *Texas Eastern Transmission Corporation, et al.*, Docket Nos. CP82-446 *et al.*, respectively, which were approved by Commission orders dated February 2, 1984 and June 18, 1984, Texas Eastern renders a firm transportation service pursuant to its Rate Schedule FTS which was filed with the Commission on August 10, 1984 and accepted as part of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1 by Commission order dated September 7, 1984.

Pursuant to the Phase IA Agreement, Texas Eastern was authorized to construct and operate the pipeline facilities described in Appendices C and G of the Phase IA Agreement and to render additional transportation services under Rate Schedule FTS consisting of two stages—Stage 1 with an actual commencement date of November 1, 1984 and Stage 2 with a proposed commencement date of November 1, 1986. In compliance with Article VII of the Phase IA Agreement, Texas Eastern in filing the above listed tariff sheet to establish initial estimated rates for firm transportation service under Rate Schedule FTS reflecting the construction of the Phase IA Stage 2 facilities.

As required by Article VII-Section 2 of the Phase IA Agreement, the cost of service, upon which these initial rates and based, reflect the actual Phase I and Phase IA Stage I facility costs, as filed in Docket No. RP85-177 and the estimated cost for Phase IA-Stage 2 facilities, as shown in the Phase IA Agreement, necessary to render firm transportation service under Rate Schedule FTS. As required by the Phase IA Agreement, factors underlying the cost of service, including an overall rate of return of 14.704%, are based on Texas Eastern's current system-wide sales and transportation rates which are anticipated to be effective subject to refund in Docket No. RP85-177 as of the time the second stage of service under Rate Schedule FTS commences.

Article VII-Section 2 of the Phase 1A Agreement provides that the above revised tariff sheet shall be accepted and permitted to become effective on the date of filing without suspension, rate condition or refund obligation except as provided therein. Accordingly, Texas Eastern respectfully requests the above tariff sheet to become effective as of September 2, 1986 the date of filing which is no less than sixty days prior to the date service under Stage 2 commences as required by the Phase IA Agreement. Texas Eastern requests the Commission waive any rule or regulation necessary to permit the tariff sheet to become effective September 2, 1986 as specified in the Phase IA Agreement.

The above tariff sheet also reflects the out-of-cycle PGA rates filed on August 5, 1986 which have not been approved by the Commission. In the event the sheets filed on August 5, 1986 are not approved or are revised in any way, Texas Eastern will refile the above listed tariff sheet to reflect the final determination on Texas Eastern's August 5, 1986 filing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or 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. All such motions of protests should be filed on or before September 23, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-21514 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-209-005; Order No. 436]

Pipelines Rates; United Gas Pipe Line Co.; Order Granting Interlocutory Appeal, Permitting Late Intervention, and Establishing Procedures for Submission of Other Motions To Intervene Out of Time

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

Issued September 18, 1986.

In this order we permit an interlocutory appeal of orders of the Presiding Administrative Law Judge (ALJ), issued July 15 and July 30, 1986, denying Pennzoil Company and Pennzoil Producing Company (Pennzoil) permission to intervene out-of-time in the above-captioned proceeding.[1] For reasons that we discuss below, we conclude that the appeal has merit and that the movants should be permitted to intervene. We shall also establish procedures to allow the late intervention of other interested persons.

Background

This is the second time Pennzoil has attempted to intervene out-of-time in this proceeding by filing an interlocutory appeal. We rejected its initial attempt, without prejudice, by order issued May 7, 1986,[2] in this docket.

The subject proceeding is United Gas Pipe Line Company's (United) Natural Gas Act section 4 rate restatement case. Notice of United's filing was issued on October 2, 1985, with petitions to intervene due on or before October 10, 1985. The Commission set the case for hearing by order issued October 28, 1985.[3] In our May 7, 1986 order, we observed that "[a] settlement on cost-of-service, cost allocation, and rate design issues has been agreed to in principle and the case appears to be proceeding toward a general rate settlement."

On March 12, 1986, Pennzoil filed a petition to intervene in this proceeding alleging that "general and specific issues have arisen in the instant proceeding concerning the implementation of Order Nos. 436 and 436-A." On March 27, 1986, United filed an answer in opposition to Pennzoil's motion. United argued that permitting a new party to intervene at that point in the proceeding would delay, if not preclude a settlement. United contended that a Natural Gas Act section 7[4] certificate proceeding would be the appropriate forum to address Pennzoil's concerns relative to United's possible implementation of Order No. 436 transportation service.

In an order issued March 31, 1986, ALJ denied Pennzoil's motion to intervene. He found that United's rate filing did not raise any Order No. 436 transportation issues. He indicated that Pennzoil would have an opportunity to intervene in a certificate proceeding at the time United files for a transportation certificate pursuant to Order No. 436. On April 15, 1986, Pennzoil appealed the ALJ's order to the Commission.

In our May 7, 1986 order, we found that "United's rate filing did not include a proposal to implement Order No. 436 open access transportation services and United has not proposed any such services in this docket." We indicated, however, that "our denial is without prejudice to later requests to intervene if . . . the settlement discussions and issues are expanded to cover Order No. 436 open access transportation services."

On may 30, 1986, in Docket No. CP86-526-000, United filed its application for a section 7(c) certificate to become an open access, non-discriminatory transporter. Notice of the application appeared in the **Federal Register** on June 17, 1986. On June 19, 1986, Pennzoil again filed a motion to intervene in the instant proceeding. By order issued July 15, 1986, the ALJ denied Pennzoil's motion.

Pennzoil filed a motion to appeal with the ALJ on July 28, 1986. The ALJ denied Pennzoil's motion to permit appeal by order issued July 30, 1986.

The Instant Appeal

On August 6, 1986, Pennzoil filed the instant appeal of the denial of its motion to intervene and the denial of its motion to appeal. Pennzoil states that it "seeks to become an active party with full participating rights, including right to comment, to examine and cross-examine witnesses, to present evidence, and to exercise every right of a party."[5]

Pennzoil attached to its motion a copy of United's derivation of rates proposed in its application in Docket No. CP86-526. It points out that "United's Derivation of Rates specifically says per Docket No. RP85-209-000, the very docket number of this proceeding."[6]

Pennzoil argues that these circumstances are analogous to those in *Texas Eastern Transmission Corp.*, Docket No. RP85-177-000 (*Texas Eastern*). In that proceeding, Pennzoil states, rates had been developed for use in Texas Eastern's Order No. 436 application, and no prior notice was given. Consequently, Pennzoil contends, the Commission issued an order on July 23, 1986, which allowed producers to intervene out-of-time so that they could participate in the formulation of Texas Eastern's Order No. 436 rates.[7] Pennzoil reasons that since rates developed in the instant docket will apply to transportation pursuant to the blanket certificate to be issued in Docket No. CP86-526-000, it should be allowed to participate in the instant proceeding.

We agree. United's use of the allocated cost of service and billing determinants from the instant docket in the development of its rates in the certificate proceeding in Docket No. CP86-526-000 provides sufficient justification to allow Pennzoil's participation in this case.

In these circumstances, we find that good cause does exist to allow Pennzoil to intervene in this proceeding, and that the ALJ's orders denying late intervention and denying appeal were in error.

Procedures To Deal With Other Motions For Late Intervention

Consistent with our action in other proceedings,[8] we shall direct that other persons who have heretofore been unaware of the Order No. 436 implications of this rate proceeding due to insufficient notice given with regard thereto may seek to intervene in this proceeding. In order to avoid the delays which could result if we were to deal with such motions for late intervention as they come before us, we will adopt the following procedures. First, we shall

---

[1] The July 15, 1986 order denied Pennzoil's motion to intervene out-of-time. By order issued July 30, 1986, the ALJ denied Pennzoil's motion for leave to appeal his July 15, 1986 order to the Commission. On August 13, 1986, the Acting Chairman, acting in his capacity as Motions Commissioner, found that extraordinary circumstances exist to permit the appeal and therefore referred Pennzoil's appeal to the full Commission.

[2] 35 FERC ¶ 61,179 (1986).

[3] 33 FERC ¶ 61,100 (1985).

[4] 15 U.S.C. 717f.

[5] Pennzoil appeal at 1.

[6] *Id.*, at 3.

[7] 36 FERC ¶ 61,098 (1986).

[8] *See* Texas Eastern Transmission Corp., 36 FERC ¶ 61,098 (1986); Transwestern Pipeline Co., 36 FERC ¶ 61,097 (1986).

direct the Secretary to have this order published promptly in the Federal Register. This will give notice that the rates which United will charge as an open access transporter pursuant to Order No. 436 will be determined in this case. Second, we shall require any person seeking to intervene to do so within 15 days of the date of publication of this order in the Federal Register.

The Commission orders:

(A) Pennzoil's interlocutory appeal filed August 6, 1986, is granted.

(B) Pennzoil's late motion to intervene is granted.

(C) Any other person seeking to intervene shall file a motion to intervene within 15 days of the date of publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-21510 Filed 9-22-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224-011001.

Title: Savannah Terminal Agreement.

Parties:

Georgia Ports Authority (Port)

Tokai Shipping Co., Ltd. (Tokai)

Synopsis: Under the terms of the proposed agreement Tokai would have non-exclusive use of Port facilities and would be entitled to an annual rebate of wharfage and dockage charges based on tonnage handled. The parties have requested a shortened review period.

Dated: September 18, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-21523 Filed 9-22-86; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 86-24]

M-C International v. Hanjin Container Lines, Ltd.; Filing of Complaint and Assignment

Notice is given that a complaint filed by M-C International (M-CI) against Hanjin Container Lines, Ltd. (Hanjin) was served September 18, 1986. M-CI alleges that Hanjin has violated sections 10(b)(3), 10(b)(6)(C), 10(b)(11) and 10(b)(12) of the Shipping Act of 1984 in the handling of certain M-CI shipments.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by September 18, 1987, and the final decision of the Commission shall be issued by March 18, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 86-21522 Filed 9-22-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0579]

Automated Clearing House Float Recovery; Request for Content

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Automated clearing house float recovery; request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") is requesting comments on a proposed method of recovering the cost of float generated by automated clearing house ("ACH") transactions processed during the night cycle and a corresponding reduction of the current per item surcharge assessed on night cycle ACH transactions.

Specifically, the Board proposes to establish each year a "float factor" equal to the ratio of the projected cost of float to the projected value of ACH debit transactions processed at night. This factor would then be applied to the value of all debit transactions deposited by an originating institution at night to determine the charge for float to be assessed to that institution. The float factor charges would be included in the institution's regular billing invoice.

Because this float factor would recover the costs of float, the night cycle surcharge, currently set to recover float and the higher costs of operating at night, could be reduced to cover only the higher operating costs. Accordingly, the Board proposes to set the nighttime surcharge to cover only these higher operating costs, currently estimated at $.015 each for both debit and credit transactions.

DATE: Comments on the proposal should be submitted no later than November 21, 1986.

ADDRESS: Interested parties are invited to submit written data, views and other comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551, or to deliver such comments to the guard station in the Eccles Building Courtyard on 20th Street NW. (between Constitution Avenue and C Street NW.) Written comments should refer to Docket No. R-0579. Comments received may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays, except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information. (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Earl G. Hamilton, Assistant Director, (202/452-3879), Florence M. Young, Advisor (202/452-3955), or Julius F. Oreska, Manager, (202/452-3878), Division of Federal Reserve Bank Operations; Elaine Boutilier, Senior Attorney, Legal Division (202/452-2418); or Telecommunications Device for the Deaf ("TDD") users, Earnestine Hill or Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act (12 U.S.C. 248a) requires the Federal Reserve to recover the costs of Federal Reserve float generated by priced services. Both debit and credit ACH transactions may generate float, which occurs when

processing delays are experienced. When debit transactions are processed, funds flow to the originator from the receiver of the transactions. Should a debit transaction be delayed in processing, debit float would be created because the originator's reserve or clearing account would be credited before the receiver's account would be charged. In the case of credit transactions, funds flow from the originator to the receiver. Should processing delays occur, credit float is generated because the originator is charged for the transactions before the receiver's account is credited. In 1985, the daily average ACH net debit float was $24.5 million, resulting in total float cost of $1.68 million.[1]

The majority of ACH float occurs during the night processing operations because most large-dollar debit transactions, primarily intra-corporate cash consolidations transactions, are processed at night. Float is rarely generated by the daytime operations because transactions held up by processing delays during the day can be processed at night without a delay in settlement. Also, there is generally less time between processing and settlement for transactions handled at night.

Currently, the cost of net debit float attributable to processing delays is recovered through a surcharge applied to all debit transactions processed at night, which recovers the cost of the majority of ACH processing float. However, this uniform surcharge creates inequities among users of the ACH service because an institution originating a small (*e.g.* $100) debit transaction will pay the same 6¢ surcharge as an institution originating a large (*e.g.* $10,000) debit transaction, yet the cost of float on the larger dollar transactions would be significantly higher. Thus, originators of small dollar transactions are subsidizing originators of large dollar transactions.

In addition to the cross-subsidies caused by the current night surcharge for debit transactions, it appears that the level of the fee has been a disincentive for using the ACH to clear some time-critical, small dollar payments, such as point-of-sale and automated teller machine transactions. To address these concerns, the Board considered two alternatives and also reevaluated the current surcharges that are assessed to recover the higher costs of nighttime operations.

Float Recovery—Two alternatives for recovering ACH net debit float were identified and evaluated. Under the first alternative, originators of debit transactions would be charged the cost of float ("charge-back") that would be generated when transactions they originated are delayed. This method would be similar to the procedures the Federal Reserve Banks use to recover certain categories of check clearing float. Under the second alternative, a "float factor" would be developed. The factor would equal the ratio of the projected cost of net debit float to the projected value of ACH debit transactions processed at night.[2] The factor would then be applied to the value of all debit transactions deposited by an originating institution at night. Based on the cost of ACH debit float and the value of debit transactions processed at night during 1985, the float factor would have been $.0012 per thousand dollars of debit transactions originated. For an originator of a $3 million debit transaction, the float charge would be $3.60. The float charge would be in addition to the basic fee to process the transaction during the night cycle.

Both the float factor and the charge-back alternatives have significant advantages over the current surcharge. Each alternative reduces the inequity associated with the surcharge and removes a barrier to small-dollar payments processed at night. Also, each alternative would increase the cost of processing large-dollar payments on the ACH and would likely cause some of these payments to migrate to the large-dollar wire transfer networks, thereby reducing payment system risk.

The charge-back alternative is more equitable than the current surcharge, because the depository institutions whose customers benefit from the float, that is, the institutions originating the debit transactions, would be charged for the cost of the float. However, the charge-back alternative would be complex operationally, because float would have to be tracked at the individual payment level. The cost of developing a mechanism to track float at the individual payment level and the costs of additional staff would not make this method of float recovery cost effective. Therefore, the Board is not proposing adoption of this alternative.

The float factor has the advantage that it is both equitable and simple to implement. The float factor would be assessed on all night cycle transactions based on the value of each transaction.[3] Currently, the originating depository institution's Reserve office collects information on each ACH transaction, so no additional monitoring capability would be needed. The Reserve Banks estimate that the cost of modifying existing software to implement the float factor will be less than $50,000 and would require no additional staff in the operations at the Reserve offices.

A disadvantage of the float factor alternative is that the factor is set to recover estimated float cost, and consequently, may underrecover or overrecover actual float cost. In this regard, however, the float factor is not unlike other fees for payments services.

Because the float factor alternative is equitable to depository institutions and does not have the operational complexity and high cost associated with the direct charge-back alternative, the Board is proposing to adopt this method for ACH float recovery.

Nighttime Surcharges—As part of the study of float recovery alternatives, the current nighttime processing surcharges were reviewed. The present surcharge for debit transactions is $.06, which is intended to recover the cost of float and the higher operating costs of night processing. The night surcharge for one-day credit transactions is $0.03 and is set to cover the additional operating cost of nighttime operations. Currently, two-day credit transactions are not assessed the night surcharge, in order to encourage earlier delivery of payroll transactions. At the time these fees were implemented, it was believed that assessing a surcharge for two-day credit transactions would discourage use of the nighttime operations for these transactions. Given that the costs of processing two-day credit transactions is the same as for other transactions, and many institutions believe that the added delivery time is important, it is now believed that assessing a small surcharge for two-day credit transactions should not affect significantly the use of this option.

After reviewing nighttime processing costs, the Board proposes that the additional cost of processing ACH transactions at night should be recovered through a uniform surcharge applied to all debit and credit transactions processed at night. The reduction in the debit surcharge from $.06 is based on the assumption that

[1] Total ACH float cost is determined by multiplying the daily average net debit float by the Fed Funds rate.

[2] It is expected that the float factor will be set once a year, like other ACH fees, and would be based on budget information supplied by the Reserve Banks.

[3] Although ACH debit float is primarily attributable to interregional transactions, the Board is proposing to assess the float factor to all nighttime debit transactions to maintain the low administrative costs and operational simplicity of this alternative.

float cost would be recovered through the float factor. In the case of credit transactions, the cost of processing one and two-day credits is the same. Therefore, it is proposed that a uniform night surcharge be applied to both types of credit transactions. Based on current information, it is estimated that the nighttime surcharge for both debit and credit transactions should be approximately $.015. It is expected that the new night surcharge would provide for a more equitable fee structure, as the fees would reflect actual operating costs for all types of transactions processed.

Therefore, the Board requests comments from interested members of the public on the proposed "float factor" to be used to recover the costs of ACH net debit float and the proposed adoption of a uniform surcharge for ACH transactions originated at night calculated to reflect the actual nighttime operating costs.

Board of Governors of the Federal Reserve System, September 17, 1986.

William W. Wiles,

Secretary.

[FR Doc. 86-21444 Filed 9-22-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Fidelcor, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and premissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 17, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fidelcor, Inc.*, Philadelphia, Pennsylvania; to merge with Merchants Bancorp, Inc., Allentown, Pennsylvania, and thereby indirectly acquire Merchants Bank, N.A., Allentown, Pennsylvania, and Merchants Bank, North, Wilkes-Barre, Pennsylvania.

In connection with this application, Applicant has also applied to acquire Merchants Life Insurance Company, Phoenix, Arizona, and thereby engage in reinsurance of credit life and disability health insurance on extensions of credit made by Merchants Bancorp, Inc., Allentown, Pennsylvania and its subsidiaries pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-21467 Filed 9-22-86; 8:45 am]

BILLING CODE 6210-01-M

Kosciusko Financial Inc., et al.; Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 14, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Kosciusko Financial, Inc.*, Mentone, Indiana; to engage *de novo* through its subsidiary, Kosciusko Credit Life, Mentone, Indiana, in insurance sales related only to an extension of credit by Applicant's subsidiary bank pursuant to § 225.25(b)(8)(i)(A).

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *San Diego Financial Corporation*, San Diego, California; to engage through its subsidiary, San Diego Life Insurance Company, San Diego, California, in a joint venture to underwrite credit-related insurance pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of California.

Board of Governors of the Federal Reserve System, September 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-21468 Filed 9-22-86; 8:45 am]

BILLING CODE 6210-01-M

River Forest Bancorp; Acquisition Application; Correction

This notice corrects a previous Federal Register document (FR Doc. No. 86-20548), published at page 32537 of the issued for Friday, September 12, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *River Forest Bancorp*, River Forest, Illinois; to merge with Commerical Chicago Corporation, Chicago, Illinois, and thereby indirectly acquire Commercial National Bank of Chicago, Chicago, Illinois. Comments on this application must be received by October 2, 1986.

Board of Governors of the Federal Reserve System, September 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-21469 Filed 9-22-86; 8:45 am]

BILLING CODE 6210-01-M

The Toyo Trust And Banking Co., Limited, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 16, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Toyo Trust and Banking Company, Limited*, Tokyo, Japan; to become a bank holding company by acquiring 100 percent of the voting shares of Toyo Trust Company of New York, New York, New York, a *de novo* bank.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Kentucky Bancorporation, Inc.*, Covington, Kentucky; to acquire 100 percent of the voting shares of Marion Bancshares, Inc., Lebanon, Kentucky, and thereby indirectly acquire Marion National Bank, Lebanon, Kentucky.

2. *Montgomery Bancorporation, Inc.*, Sterling, Kentucky; to acquire 100 percent of the voting shares of Farmers Exchange Bank of Millersburg, Millersburg, Kentucky. Comments on this application must be received by October 17, 1986.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Carolina First Corporation*, Greenville, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Carolina First Bank, Greenville, South Carolina, a *de novo* bank. Comments on this application must be received by October 17, 1986.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Allied Bankshares, Inc.*, Thomson, Georgia; to acquire 95 percent of the voting shares of Bank of Columbia County, Harlem, Georgia.

2. *SouthTrust Corporation*, Birmingham, Alabama; to acquire 100 percent of the voting shares of Pike County Bank, Troy, Alabama.

3. *UniSouth, Inc.*, Umatilla, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Umatilla State Bank, Umatilla, Florida.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bankshares, Inc.*, Wausau, Wisconsin; to acquire at least 64.6 percent of the voting shares of Westby-Coon Valley State Bank, Westby, Wisconsin. Comments on this application must be received by October 14, 1986.

2. *Franklin Capital Corporation*, Morton Grove, Illinois; to merge with Burlington Capital Corporation, Wilmette, Illinois, and thereby indirectly acquire Affilated Bank/Burlington, Burlington, Illinois. Comments on this application must be received by October 14, 1986.

F. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Central Bancshares, Inc.*, Louisville, Kentucky; to become a bank holding company by acquiring up to 100 percent of the voting shares of The Central Bank of North Pleasureville, Pleasureville, Kentucky.

2. *ONB Corporation*, Owensboro, Kentucky; to merge with First City Bank and Trust Company, Hopkinsville, Kentucky, and thereby indirectly acquire Area Bancshares Corporation, Hopkinsville, Kentucky.

G. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Capital National Bancshares, Inc.*, Oklahoma City, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Capital National Bank, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, September 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-2170 Filed 9-22-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's initial review committees. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these

meetings is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: Alcohol, Drug Abuse, and Mental Health Advisory Board, ADAMHA.

Date and Time: October 7–8: 9:00 a.m.

Place: National Institutes of Health, 9000 Rockville Pike, Building 1, Wilson Hall—3rd floor, Bethesda, Maryland 20205.

Status of Meeting: Open.

Contact: Barbara Wagner, Room 12C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4640.

Purpose: The Alcohol Drug Abuse, and Mental Health Advisory Board assesses the national needs for alcoholism, alcohol abuse, drug abuse, and mental health treatment and prevention services and the extent to which those needs are being met by State, local and private programs, and programs receiving funds under Title V and Part B of Title XIX of the Public Health Service Act. The Board provides advice and recommendations to the Secretary and to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, respecting these activities to assist in guiding national strategies aimed at the amelioration of alcohol, drug abuse, and mental health problems.

Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 7–8: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Status of Meeting: Open—October 7: 9:00 a.m.; Closed—Otherwise.

Contact: Pamela J. Mitchell, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical Program/Projects Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 9–10: 9:00 a.m.

Place: J.W. Marriott, 1331 Pennsylvania Avenue NW., Washington, D.C. 20004.

Status of Meeting: Open—October 9: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Pamela J. Mitchell, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of mental health clinical research centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Cognition, Emotion, and Personality Review Committee, NIMH.

Date and Time: October 9–10: 9:00 a.m.

Place: The State Plaza Hotel, 2117 E Street NW., Washington, DC 20037.

Status of Meeting: Open—October 9: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Doris East, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology and Prevention Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee, NIDA.

Date and Time: October 15–17: 8:30 a.m.

Place: Rockville Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Status of Meeting: Open—October 15: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Ron Gold, Room 10442, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Clinical Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 20–22: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Status of Meeting: Open—October 20: 9:00–9:30 a.m.; Closed—Otherwise.

Contact: Laura Weinstein, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review

Committee Name: Research Scientist Development Review Committee, NIMH.

Date and Time: October 20–22: 7:00 p.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Status of Meeting: Open—October 21: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Linda Rainey, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Chevy Chase, Maryland 20815.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institution for the support of individuals who are engaged full time in research and related activities relevant to mental health with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Criminal and Violent Behavior Research Review Committee, NIMH.

Date and Time: October 22–23: 9:15 a.m.

Place: Dupont Plaza Hotel, Dupont Circle, 1500 New Hampshire Avenue NW., Washington, DC 20009.

Status of Meeting: Open—October 22: 9:15–10:30 a.m.; Closed—Otherwise.

Contact: Peg Lyons, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral

research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Prevention and Epidemiology Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 22–24: 9:00 a.m.

Place: The Wellington Hotel, 2505 Wisconsin Avenue NW., Washington, DC 20007.

Status of Meeting: Open—October 22: 9:00–10:30 a.m.; Closed—Otherwise.

Contact: Mary L. Ganikos, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations of the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Services Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH.

Date and Time: October 22–24: 9:00 a.m.

Place: Marriott Hotel, 1331 Pennsylvania Avenue NW., Washington, DC 20004.

Status of Meeting: Open—October 22: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Gloria Yockelson, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: October 22–24: 9:00 a.m.

Place: Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Status of Meeting: Open—October 22: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Emilie A. Embrey, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and rsearch training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: October 22–24: 9:00 a.m.

Place: Sheraton Washington Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Status of Meeting: Open—October 23: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Jean Byrne, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health in the fields of child, family, and aging with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 23–24: 9:00 a.m.

Place: Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue NW., Washington, DC 20008.

Status of Meeting: Open—October 23: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Maureen Eister, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment, development, and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: October 23–25: 9:00 a.m.

Place: The Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Status of Meeting: Open—October 23: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Dorothy Tengood, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities as they relate to the mental health of the child and family and prevention, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH.

Date and Time: October 23–25: 9:00 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Status of Meeting: Open—October 23: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Naomi Lichtenberg, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Council for final review.

Committee Name: Cellular Neurobiology and Psychopharmacology Research Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: October 23–25: 8:30 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue, NW., Washington, DC 20007.

Status of Meeting: Open—October 23: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Ms. Lynn Warwick, Room 9C–26, Parklawn Building, 5600 Fishers

Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Behavioral Neurobiology Research Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: October 23–25: 8:30 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue NW., Washington, DC 20007.

Status of Meeting: Open—October 23: 8:30–9:30 a.m.; Closed—Otherwise.

Contact: Lynn Warwick, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: October 28–29: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue NW., Washington, DC 20007.

Status of Meeting: Open—October 28: 9:00–11:00 a.m.; Closed—Otherwise.

Contact: Walter T. Schaffer, Room 16–C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 2057, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Neuroscience and Behavior Subcommittee of Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: October 29–30: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue NW., Washington, DC 20007.

Status of Meeting: Open—October 29: 9:00–11:00 a.m.; Closed—Otherwise.

Contact: Mark R. Green, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Basic Behavioral Processes Research Review Committee, NIMH.

Date and Time: October 30–31: 9:00 a.m.

Place: State Plaza Hotel, 2117 E Street NW., Washington, DC 20037.

Status of Meeting: Open—October 30: 9:00–10:00 a.m.; Closed—Otherwise.

Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Mary Kielkopf, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Joanna Kieffer, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 16, 1986.

Brenda L. Williamson,

Acting Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86–21496 Filed 9–22–86; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Third US-Finnish Joint Symposium on Occupational Safety and Health; Open Meeting

The Third US-Finnish Joint Symposium, entitled "The Changing Nature of Work and Work Force," will be held October 21–24, 1986, at the Capitol Plaza Hotel, Frankfort, Kentucky. This science symposium is sponsored by the Finnish Institute of Occupational Health and the National Institute for Occupational Safety and Health (NIOSH).

The symposium will begin with an opening session at 8 a.m., Wednesday, October 22, and will continue until 12 noon on Friday, October 24. Beginning at 1:30 p.m., Wednesday, and continuing until 5:30 p.m. on Thursday, there will be five consecutive sessions at which scientific papers on the following topics will be presented and discussed:

1. Demographic Changes;
2. Industrial Hygiene/Control Technology;
3. New Technology and Processes;
4. Service Industries; and
5. Toxicological Investigations.

On Friday, October 24, there will be summaries and discussions of the five sessions.

For further information, please contact: Craig Withers, NIOSH, CDC, Room 714B, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Telephones: FTS: 472–7134; Commercial: 202/472–7134.

Dated: September 17, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–21491 Filed 9–22–86; 8:45 am]

BILLING CODE 4160–19–M

Family Support Administration

Use of Exxon Petroleum Violation Escrow Funds in the Low Income Home Energy Assistance Program

AGENCY: Family Support Administration, HHS.

ACTION: Notice.

SUMMARY: The United States Department of Energy (DOE) successfully sued Exxon Corporation for charges in violation of oil price regulations. Pursuant to the court's order, Exxon paid approximately $2 billion into an escrow account at the Department of the Treasury. (This escrow account is hereafter referred to as Exxon funds.) The court's order

directed DOE to disburse the funds in accordance with section 155 of Pub. L. 97–377. In accordance with the court's order and section 155 of Pub. L. 97–377, the Secretary of DOE distributed Exxon funds to the Governors of the States to be used as if those funds had been received under any of four energy conservation programs administered by DOE or under the Low Income Home Energy Assistance Program (LIHEAP).

This notice provides guidance to LIHEAP grantees on the use of these Exxon funds. The purpose of this notice is to communicate our interpretation of the conditions put on the use of these funds for LIHEAP by the court and by section 155.

The general statutory requirement imposed by section 115(c) is that the Exxon funds are to be used as if they were received under any of the programs to which they may be applied. As with LIHEAP funds, we want to leave to the States maximum policy discretion in use of Exxon funds for LIHEAP purposes while still recognizing the restitutionary nature of the funds.

FOR FURTHER INFORMATION CONTACT: Norman L. Thompson, Director, Office of Energy Assistance, Family Support Administration, Room B–448, Transpoint Building, 2100 2nd Street SW., Washington, DC 20201, telephone (202) 245–2030.

SUPPLEMENTARY INFORMATION: Except as provided below, Exxon funds used for LIHEAP should be treated as funds allotted to States for LIHEAP. Section 155(c) of Pub. L. 97–377 directs Governors to use escrow funds, "* * * as if such funds were received under * * *," one of five specified programs, including LIHEAP. In effect, Exxon funds used for LIHEAP should be treated by the States as part of the State's LIHEAP allotment.

No Exxon funds may be used for administration. Under section 2605(b)(9) of Pub. L. 97–35 as amended, a State may use up to 10% of its LIHEAP funds for planning and administation. Under section 155(f) of Pub. L. 97–377, however, no Exxon funds may be used for administration expenses. Although those provisions appear to be inconsistent, we believe that they can be reconciled. If a State uses Exxon funds for LIHEAP purposes, the funds may be considered part of be considered part of the LIHEAP allotment to which the 10% limitation on administrative expense applies, since the Exxon funds used for LIHEAP are to be used as if they were LIHEAP funds. Funds actually used for administrative expenses, however, must not be Exxon funds.

No Exxon funds may be used for transfers to other block grants or to increase the base to which transfer cap to 10% is applicable. Under section 2604(f) of Pub. L. 97–35 as amended, a State may transfer up to 10% of its LIHEAP allotment to certain other block grants. Focusing on compensation to the injured class, the court clearly anticipated that Exxon funds would be used to reduce energy related needs under one or more of the five designated programs listed in section 155 of Pub. L. 97–337. Therefore, no Exxon dollars may be used for transfers to other block grants. In addition, under section 155(c) of Pub. L. 97–377, escrow funds may be used to supplant Federal or State funds otherwise available for LIHEAP. Since using Exxon funds to increase the LIHEAP allotment and, therefore, the base for calculating the transfer of LIHEAP dollars may result in more LIHEAP dollars transferred, the net effect is the LIHEAP dollars are supplanted. Therefore, no Exxon funds may be used to increase the base to which the transfer cap of 10% is applied. Further, to avoid violating section 155(c), a State electing to transfer any LIHEAP funds subsequent to the receipt of Exxon funds must have a basis independent of the receipt of Exxon for its action.

The use of Exxon funds will be included in some reporting requirements and not others as follows:

a. Estimate of monthly obligations—Form SSA–35 should *not* reflect Exxon funds. The estimates are used for decisions about apportionment of block grant appropriations. Exxon funds are not part of this process.

b. Rollover and reallotment report—Exxon funds are to be treated like funds received under LIHEAP respect to section 2607(b) of Pub. L. 97–35 and should be reflected in the report required by 45 CFR 96.81.

c. Number and income levels of households assisted—Households assisted with Exxon funds should be included. 45 CFR 96.2 provides that grantees report on the number and income levels of all households assisted with LIHEAP funds. However, it is not necessary to report in such a way that the number of households assisted by Exxon funds is distinguishable from the number of households otherwise assisted.

d. Audit—Exxon funds should be audited according to the same audit requirements as other LIHEAP funds. States should be aware of any State audit requirements which would make it necessary to track Exxon funds separately to determine that no funds were used for administrative or transfer purposes, or otherwise used in a manner contrary to section 155.

Each State must determine whether its use of Exxon funds requires the State to amend its plan, although public hearings are not required. Section 2605(a)(2) of Pub. L. 97–35 as amended, requires that public hearings be held by States before receiving LIHEAP grants for fiscal year 1986. We believe that the availability of Exxon funds does not require new hearings under that section. A State's plan may have to be amended to cover the expenditure of Exxon funds. States will need to determine whether their intended use of Exxon funds is consistent with the use and distribution of LIHEAP funds expressed in their current plans. If it is not, States should make available for public inspection plans for the use of Exxon funds which require a substantial revision of its LIHEAP plan and amend its LIHEAP plan to reflect the Exxon expenditures. As with other LIHEAP plan amendments, prior Federal approval is not required in order for a State to implement the amendment.

HHS cannot set aside portions from State grants of Exxon funds in order to make direct grants to Indian tribes which run their own LIHEAP programs. The court's order incorporating section 155 provides that the Secretary of DOE distribute funds to the Governors of the States. The funds are to be distributed among States based upon the amount of petroleum products used by the citizens of each State, including members of Indian tribes with direct LIHEAP grants. The Governors of the States then decide upon the distribution of Exxon funds among the five eligible programs within the State. The Office of Family Assistance does not have authority to set aside Exxon funds for direct grants to Indian tribes. The State should ensure that members of LIHEAP grantee Indian tribes share equitably in the benefits provided with Exxon funds expended under LIHEAP. We are not prescribing the manner in which a State accomplishes this. The State may make any appropriate arrangements, including requesting that the Office of Family Assistance withhold from LIHEAP grants to the State an amount proportionate to the Indian tribe's share of escrow funds, in order to augment the LIHEAP allocations of direct-grant Indian tribes.

LIHEAP provisions in effect at the time Exxon funds are used for LIHEAP purposes govern. Fiscal year 1986 is a reauthorization year for LIHEAP. Reauthorization may result in further amendments to the LIHEAP statute than those effected by the Human Services

Reauthorization Act of 1984 (Pub. L. 98–558). Therefore, to avoid the possibility of applying two different statutes, one to LIHEAP funds and one to Exxon funds within a single year LIHEAP program, the LIHEAP statute and regulations in effect at the time Exxon funds are used for LIHEAP purposes govern the use of such funds.

We have responsibility for oversight of Exxon funds used for LIHEAP and will exercise our normal oversight responsibilities. However, where Exxon funds are involved, either solely or comingled with LIHEAP funds, we will document any findings of substantial non-compliance or erroneous expenditures and submit our findings to DOE and the court for appropriate action.

(Catalogue of Federal Domestic Assistance Programs No. 13.818 Low Income Home Energy Assistance)

Dated: September 16, 1986.

Wayne A. Stanton,

Administrator, Family Support Administration.

[FR Doc. 86–21502 Filed 9–22–86; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

[Docket No. 86M–0365]

Paco Pharmaceutical Services, Inc.; Premarket Approval of Charter Labs Non-Preserved Saline Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Paco Pharmaceutical Services, Inc., Lakewood, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the unit-dose CHARTER LABS NON-PRESERVED SALINE SOLUTION. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by October 23, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On April 29, 1985, Paco Pharmaceutical Services, Inc., Lakewood, NJ 08701, submitted to CDRH an application for premarket approval of the CHARTER LABS NON-PRESERVED SALINE SOLUTION for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses.

On January 24, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 22, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the CHARTER LABS NON-PRESERVED SALINE SOLUTION states that the solution is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. Manufacturers of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity For Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 23, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 16, 1986.

James S. Benson,

Deputy Director Center for Devices and Radiological Health.

[FR Doc. 86–21466 Filed 9–22–86; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Advisory Board and Board Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, October 6–8, 1986, National Cancer Institute, Building 31C, Conference Room 6, 6th floor, National Institutes of Health, Bethesda, Maryland 20892. Meetings of Subcommittees of the Board will be held at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and

552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Subcommittee on Planning and Budget will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, to discuss the 1988 President's budget.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meetings and rosters of Board members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5147) will furnish substantive program information.

Name of Committee: *National Cancer Advisory Board*
Dates of Meeting: October 6–8, 1986
Place of Meeting: Building 31C, Conference Room 6, 6th floor, National Institutes of Health
Open: October 6, 8:30 a.m.—recess, October 8, 8:00 a.m.—adjournment
Agenda: Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; Subcommittee Reports and New Business.
Closed Session: October 7, 8:30 a.m.—recess
Closure Reason: To review grant applications.

Name of Committee: *Subcommittee on Cancer Information*
Date of Meeting: October 5, 1986
Place of Meeting: Building 31, C Wing, Conference Room 8, 6th Floor, National Institutes of Health
Open: October 5, 2:00 p.m.—adjournment
Agenda: A discussion of the cancer information program.

Name of Committee: *Subcommittee on Organ Systems Program*
Date of Meeting: October 5, 1986
Place of Meeting: Building 31, C Wing, Conference Room 7, 6th Floor, National Institutes of Health
Open: October 5, 5:00 p.m.—adjournment
Agenda: A discussion on the progress of the organ systems program.

Name of Committee: *Subcommittee on Innovations in Surgical Oncology*
Date of Meeting: October 6, 1986
Place of Meeting: Building 31, C Wing, Conference Room 7, 6th Floor, National Institutes of Health
Open: October 6, Immediately following the National Cancer Advisory Board meeting.
Agenda: Old business; new business; discussion on the surgical oncology training grant.

Name of Committee: *Subcommittee on Planning and Budget*
Date of Meeting: October 6, 1986
Place of Meeting: Building 31, A Wing, Conference Room 11A10, 11th Floor, National Institutes of Health
Closed: October 6, 7:30 p.m.—adjournment
Closure Reason: To discuss the FY 88 President's budget.

Name of Committee: *Subcommittee on Special Actions for Grants*
Date of Meeting: October 7, 1986
Place of Meeting: Building 31, C Wing, Conference Room 6, 6th Floor, National Institutes of Health
Closed: October 7, 8:30 a.m.—adjournment
Closure Reason: To review grant applications.

Name of Committee: *Subcommittee for Review of Contracts and Budget for Office of the Director*
Date of Meeting: October 7, 1986
Place of Meeting: Building 31, Conference Room 8, Sixth Floor, National Institutes of Health
Open: October 7, Immediately following the closed session of the National Cancer Advisory Board meeting.
Agenda: A concept review of the Office of the Director's contracts and budget.

Name of Committee: *Subcommittee on Cancer Control for the Year 2000*
Date of Meeting: October 7, 1986
Place of Meeting: Building 31, C Wing, Conference Room 8, 6th Floor, National Institutes of Health
Open: October 7, 7:30 p.m.—adjournment
Agenda: To discuss the status of the NCI Cancer Control Program and other issues relating to cancer control objectives for the year 2000.

Dated: September 15, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 13.392, project grants in cancer construction. 13.393, project grants in cancer cause and prevention. 13.394, project grants in cancer detection and diagnosis. 13.395, project grants in cancer treatment. 13.396, project grants in cancer biology. 13.397, project grants in cancer centers support. 13.398, project grants in cancer research manpower. 13.399, project grants and contracts in cancer control)

[FR Doc. 86–21615 Filed 9–22–86; 8:45 am]
BILLING CODE 4140–01–M

National Advisory Eye Council; Meeting

Notice is hereby given of a change in the meeting of the National Advisory Eye Council on September 29–30, 1986, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland, which was published on September 16, 1986 (51 FR 32852). The meeting will be open to the public from 9:00 a.m. until 12:00 noon and will be closed to the public from approximately 12:00 noon until recess on Monday, September 29.

On Tuesday, September 30, the meeting which was to have been entirely closed from 9:00 a.m. until adjournment is hereby amended to include an open portion from approximately 10:15 a.m. to 10:45 a.m. for a presentation to Council by the Director, HIH, on the Director's Advisory Committee.

Dated: September 18, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 86–21614 Filed 9–22–86; 8:45 am]
BILLING CODE 4140–01–M

Consensus Development Conference on Platelet Transfusion Therapy; Meeting

Notice is hereby given of the NIH Consensus Development Conference on "Platelet Transfusion Therapy" sponsored by the National Heart, Lung, and Blood Institute of the National Institutes of Health (NIH), the Center for Drugs and Biologics of the Food and Drug Administration and the NIH Office of Medical Applications of Research to be held October 6–8, 1986, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting is open to the medical community (continuing medical

education credit will be offered) and the general public at no charge.

Platelets for transfusion are usually prepared from whole blood, concentrated in a separate plastic pack, and stored at ambient temperature before being transfused. Platelets obtained from multiple random donor units can be pooled to obtain enough platelets to treat one patient. Alternatively, the necessary number of platelets can be obtained from a single donor by manual or machine-assisted plateletpheresis. The use of platelets has increased dramatically during the past 15 years because of improved methods of platelet storage and new medical and surgical therapies. Although there is general agreement that platelets are indicated for patients with thrombocytopenia or platelet functional disorders who have significant bleeding, the amount of platelets that should be administered and the use of platelets for prophylaxis are controversial. Unlike red cells, antigens expressed on platelets other than those of the ABO system are highly immunogenic. Thus, multiple transfused patients often become refractory to platelets from randomly selected donors. Prevention and management of this state present important challenges to investigators and clinicians. Consensus is lacking as to the importance of factors, other than platelet levels, that predispose individual thrombocytopenic patients to bleed and as to the efficacy of treatments other than transfusion in the prevention of bleeding. Like most blood products platelet transfusions carry a significant risk of disease transmission.

How should platelets be isolated from donated blood and stored to maintain their hemostatic effectiveness? What are the indications for platelet transfusion and in what doses should platelets be administered? How useful is prophylactic transfusion of platelets in preventing hemorrhage? What immunologic and non-immunologic factors influence the response of individual patients to platelet transfusion and how can refractoriness be prevented or overcome? What are the general and specific risks of platelet transfusion? What are the relative merits of pooled concentrates prepared from random donors and concentrates obtained from single donors by plateletpheresis?

In this open forum, participants will evaluate the efficacy, safety, and clinical use of human platelet concentrates. The conference will bring together clinical and basic investigators interested in platelets, specialists in transfusion medicine, surgeons, anesthesiologists, consumers, and representatives of public interest groups. Following two days of presentations by medical experts and discussion by the audience, a consensus panel will consider the scientific evidence. The panel members, drawn from the medical professions, blood banking organizations, and the lay public, will formulate a draft statement responding to the following questions:

- What are the appropriate indications for platelet transfusion?
- What products are available, what are their relative merits, and in what dose should they be administered?
- What are the risks associated with platelet transfusion?
- What are the most important directions for future research?

On the third day, Consensus Panel Chairman Richard H. Aster, M.D., President, Blood Center of Southeastern Wisconsin, Clinical Professors of Medicine and Pathology, Medical College of Wisconsin, Milwaukee, Wisconsin, will read the consensus statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Ms Sharon Feldman, Prospect Associates, 1801 Rockville Pike, Suite 500 Rockville, Maryland 20852 or call (301) 468–6555.

Dated: September 18, 1986.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 86–21616 Filed 9–22–86; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Part of the Reservation Pueblo of Santa Ana, NM; Corrections

September 9, 1986.

In FR Doc. 86–12183 appearing on pages 19613 and 19614, in the issue for Friday, May 30, 1986, the following corrections are hereby made: appearing on page 19613, column three, the land description is corrected by deleting "North 89°59'13" East" on the first line of the sixth paragraph and inserting in lieu thereof "South 89°59'13" East." On page 19614, column two, the eleventh line, the land description is corrected by deleting "South 89°57'57" East" and inserting in lieu thereof "South 89°57'42" East". The second heading in column two is corrected by deleting "Track of Land" and inserting "Tract of Land". The land description is corrected under the second heading in column two, tenth line, by deleting "South 68°09'33" East" and inserting in lieu thereof "South 68°08'33" East".

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 86–21454 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[NM–060–06–4111–02]

Roswell District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Advisory Council Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Advisory Council.

DATE: Thursday, October 23, 1986, beginning at 10 a.m. A public comment period will be held following the last agenda item.

Location: BLM Roswell District Office, 1717 West Second St., Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: David L. Mari, Associate District Manager, or Guadalupe Martinez, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, (505) 622–9042.

SUPPLEMENTAL INFORMATION: The proposed agenda will include: (1) Carlsbad RMP Update; (2) Proposed Road Policy and Standards: (3) Status of Oil and Gas Activities; (4) Archaeological Studies for Well Locations; (5) Wilderness Update; (6) WIPP Withdrawal; (7) Update on Crockett Allotment; (8) Oil and Gas Painting Stipulations; (9) BLM/FS Land Exchange Update. The meeting is open to the public. Interested persons may make oral statements to the Council during the public comment period or may written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by October 14, 1986.

Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Francis R. Cherry, Jr.,

District Manager.

[FR Doc. 86–21455 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-070-06-4333-12]

Motor Vehicle Use Restrictions, Garnet Resources Area, Butte District, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of restrictions on motor vehicle travel on certain lands in the Garnet Resource Area.

SUMMARY: The use of motor vehicles on public lands in the Garnet Resource Area is hereby resticted in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as open, limited, or closed to motorized vehicle use pursuant to the provisions of 43 CFR 8342.1.

Affected by the designation are 233,610 acres, which includes all public lands in the Garnet Resource Area. The lands are managed under the Garnet Resource Management Plan dated September 1985. They are located in Missoula, Granite, and Powell counties.

These designations are revisions to **Federal Register** notices dated Wednesday, August 26, 1981, Vol. 46, No. 165, and Thursday, June 19, 1980, Vol. 45 No. 120.

These revisions are necessary to more efficiently manage vehicle use on public lands, to implement decisions in the Garnet Resource Management Plan and to coordinate vehicle travel management with adjoining intermingled private and public lands. Comments received during public open houses and written responses as part of the Garnet Resource Management Plan process influenced these designations. This designation order supersedes all other off-road vehicle travel designations. These designations are published as final, effective immediately, and will remain in effect until rescinded or modified by the authorized officer. Under 43 CFR 4.21, an appeal may be filed with the Interior Board of Land Appeals within 30 days of publication in the **Federal Register**.

A. Open Designation—No areas have been designated as open.

B. Limited Designation—Areas which are designated limited comprise approximately 153,820 acres. Limited designation was determined appropriate to protect the resources of the public lands, promote the safety of all users of the public lands, and to minimize conflicts among various users. The following table identifies the type of restriction on motorized vehicle travel, the specific area(s) where the restriction occurs, the affected acreage area, and a brief rationale for each affected area. The specific areas and roads on which motorized vehicle activities are limited are shown on the Garnet Resource Area Travel Plan Map. Copies of the Travel Plan Map will be available at the BLM offices in Butte and Missoula about mid-October 1986.

Motor vehicle travel by wheeled vehicles on all other public land in the Garnet Resource Area not included in the following table or designated as closed is limited to existing roads and trails. The acreage on which travel is permissable yearround but is limited to existing roads and trails totals about 79,250 acres.

TABLE 1.—AREAS IN THE GARNET RESOURCE AREA SUBJECT TO ROAD CLOSURES

Name	Approximate size [1]	Road Closure Dates	Reason for closure [2]
Blackfoot Special Management Area (SMA).	42,000 ac. (9,500 ac. BLM).	Sept. 1–Nov. 30; yearlong to wheeled vehicles; open only to snow vehicles Dec. 1–Apr. 30 in Chamberlain Cr. drainage.	1, 2, 3, 7
Marcum Mtn. SMA	8,000 ac. (4,560 ac. BLM)	Sept. 1–Nov. 30 on private land; Sept; 1 Apr. 30 on winter range only	1, 2, 3
Morrison Peak SMA	24,000 ac. (40 ac. BLM)	Sept. 1–Nov. 30	1, 2, 3
Nevada Lake	15,000 ac. (380 ac. BLM)	Sept. 1–Nov. 30	1, 2, 3, 7
Wales Creek	15,400 ac. (14,120 ac. BLM).	Yearlong (except snowmobiles)	2, 3
West Fork Braziel., Gobbler's Knob, Dry Cottonwood Cr.	15,000 ac. (12,000 ac. BLM).	Sept. 1–Nov. 30	1, 2, 3
Ram Mountain	11,000 ac. (4,800 ac. BLM).	Yearlong (except administrative uses)	1, 2, 3, 4, 6, 7
McElwain and Douglas Creeks	8,500 ac. (7,840 ac. BLM)	Murray Cr. Rd., Deer Gu. Spur and Trail Spring Spur closed Sept 1 to Nov. 30. McElwain Fire Rd., Boiler connecting road and Snowcap Trail closed yearlong except open to over snow vehicles Jan. 1 to Apr. 30.	2, 3, 5, 7
Deer Creek	2,600 ac. (400 ac. BLM)	Sept. 1–Nov. 30	2, 3
Summit Cabin	900 acs. (870 ac. BLM)	Sept. 1–Nov. 30	2, 3, 7
Keno Cr. Spur	400 ac. BLM	Yearlong (except snowmobiles)	2, 3, 7
Karshaw Mtn.	240 ac. BLM	Yearlong (except administrative use)	2, 3, 7
West Fork Buttes	960 ac. BLM	Sept. 1 to Apr. 30	4
Montgomery Gulch	120 ac. BLM	Sept. 1 to Apr. 30	4
Hoodoo Gulch	200 ac. BLM	Sept. 1 to Apr. 30	4
Wyman Gulch	1,000 ac. BLM	Sept. 1 to Apr. 30	4
Mulkey Gulch	1,000 ac. BLM	Sept. 1 to Apr. 30	4
Rattler Gulch	1,080 ac. BLM	Sept. 1 to Apr. 30	4
Clark Fork	640 ac. BLM	Sept. 1 to Apr. 30	4
Bear Mouth	200 ac. BLM	Sept. 1 to Apr. 30	4
Bear Gulch	1000 ac. BLM	Sept. 1 to Apr. 30	4
Murray Creek	160 ac. BLM	Sept. 1 to Apr. 30	4
McElwain Creek	1840 ac. BLM	Sept. 1 to Apr. 30	4
Yourname Creek	240 ac. BLM	Sept. 1 to Apr. 30	4
Marcum Mountain	2,240 ac. BLM	Sept. 1 to Apr. 30	4
Total—153,820 acres. Total BLM—65,830 acres.			

[1] Cooperative management agreements with private landowners of lands intermingled with BLM lands result in additional acreage subject to the BLM restrictions.
[2] Reasons for Closure:
1. To gain hunting privileges on private land.
2. To improve the quality of hunting.
3. To prevent vehicular damage to soils and vegetation.
4. To reduce harassment of wintering big game.
5. To reduce harassment of elk on spring/summer/fall range.
6. To reduce pressure on big horn sheep herd.
7. To provide security for big game after logging.

C. Closed Designation—Quigg West Wilderness Study Area (WSA) containing 520 acres and Limestone Area of Critical Environmental Concern (ACEC) containing 20 acres have been designated as closed.

FOR FURTHER INFORMATION CONTACT: Detailed maps showing the location of the above-described designations are available from the offices listed below. For further information about these designations, contact either of the following Bureau of Land Management offices:

District Manager, Butte District Office, P.O. Box 3388, Butte, Montana 59702, (406) 494–5059

Area Manager, Garnet Resource Area, 3255 Fort Missoula Road, Missoula, Montana 59801, (406) 329–3914.

James A. Moorhouse,

District Manager.

[FR Doc. 86–21456 Filed 9–22–86; 8:45 am]

BILLING CODE 4310-DN-M

[WY-920-06-4990-11-6001; W-89881]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–89881 for lands in Niobrara County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and not less than 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–89881 effective January 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Fred O' Ferrall,

Acting Chief, Leasing Section.

[FR Doc. 86–21490 Filed 9–22–86; 8:45 am]

BILLING CODE 4310-22-M

[NV-930-06-4212-11; N-36907]

Realty Action; Lease/Purchase for Recreation and Public Purposes; Clark County, NV

The following described public land in Moapa Valley, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 14 S., R. 66 E.,
Sec. 36, W½SW¼SW¼.

This parcel of land contains approximately 20 acres. Clark County intends to use the land for the Glendale Town Equipment Storage site. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authortiy of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

2. Those rights for water pipeline purposes which have been granted to Moapa Valley Water Company by Permit No. N–11028 under the Act of October 21, 1976, 90 Stat. 2776, 43 USC 1761.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register,** the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register.**

Dated: September 15, 1986.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 86–21457 Filed 9–22–86; 8:45am]

BILLING CODE 4310-HC-M

[C-11-86]

California; Filing of Plat of Survey

September 11, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 12 N., R 8 W.

2. This supplemental plat of section 32, Township 12 North, Range 8 West, San Bernardino Meridian, California, adding lot numbers 1, 2, 3, and 4, was accepted August 26, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–21460 Filed 9–22–86; 8:45 am]

BILLING CODE 4310-40-M

[Group 882]

California; Filing of Plat of Survey

September 11, 1986.

1. This plat of the following described land will be officially filed in the

California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 2 S., R 5 E.

2. This plat representing the dependent resurvey of a portion of the south and east boundaries, and a portion of the subdivisional lines, the survey of the subdivision of section 26 and 36, and the survey of a portion of the southerly right-of-way boundary of the Colorado River Aqueduct, Township 2 South, Range 5 East, San Bernardino Meridian, California, under Group No. 882, California, was accepted August 19, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–21458 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–40–M

[C–14–86]

California; Filing of Plat of Survey

September 11, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 3 S., R 5 E.

2. This supplemental plat of the South West ¼ section 30, Township 3 South, Range 5 East, San Bernardino Meridian, California, designating lot numbers 59 and 60, was accepted September 3, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–21459 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–40–M

[Group 866]

California; Filing of Plat of Survey

September 11, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Diego County

T. 14 S., R 1 E.

2. This plat representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 33, Township 14 South, Range 1 East, San Bernardino Meridian, California, under Group No. 866, California, was accepted August 26, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–21461 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–40–M

[Group 919]

California; Filing of Plat of Survey

September 11, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Mateo County

T. 14 S., R 5 & 6 W.

2. This plat representing the survey of a portion of the exterior boundaries of the Golden Gate National Recreation Area, in Township 4 South, Ranges 5 and 6 West, Mount Diablo Meridian, California, under Group No. 919, California, was accepted August 19, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the National Park Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–21462 Filed 9–22–86; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 13, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 8, 1986.

Patrick Andrus,

Acting Chief of Registration National Register.

ARIZONA

Apache County

McNary vicinity, *Los Burros Ranger Station*, Forest Rd. 20

Coconino County

Elden Pueblo

ARKANSAS

Grant County

Sheridan, *Butler, Dr. John L., House*, 313 Oak St.

Independence County

Desha, Franklin, House

Poinsett County

Truman, *Poinsett Community Club*, Main & Poinsett Sts.

Pulaski County

Little Rock, *First United Methodist Church*, 723 Center St.

COLORADO

Bent County

Las Animas vicinity, *Boggsville*, S of Las Animas on CO 101

Boulder County

Longmont, *West Side Historic District*, Roughly bounded by Fifth, Terry, Third, & Grant

MARYLAND

Carroll County

Taneytown, *Taneytown Historic District*, MD 140 and 194

OREGON

Benton County

Corvallis, *Schuster, Charles L., House*, 228 NW 28th

Monroe vicinity, *Starr, Edwin and Anna, House*, 26845 McFarland Rd.

Marion County

Salem, *First National Bank Building-Old*, 388 State St. NE

Salem, *Gaiety Hill—Bush's Pasture Park Historic Distric*, Roughly bounded by Pringle Creek, Mission St., Bush's Pasture Park, Cross, High, and Liberty Sts.

Multnomah County

Portland, *United States National Bank Building*, 321 SW Sixth Ave.

Portland, *Wells Fargo Building*, 309 SW Sixth Ave.

VIRGINIA

Surry County

Surry Courthouse vicinity, *Chippokes Plantation Historic District*, VA 634 and 633 at Chippokes State Park

WISCONSIN

Milwaukee County

Glendale, *Town of Milwaukee Town Hall*, 5909 N. Milwaukee River Parkway

[FR Doc. 86-21536 Filed 9-22-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures; Approval of Adjustment Factor and Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Rail Cost Adjustment Factor and Decision.

SUMMARY: The Commission had decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovey Procedures*. Application of the index provides for a fourth quarter 1986 Rail Cost Adjustment Factor (RCAF) of 1.044. The RCAF shows an increase of .004 or .4 percent in rail road input prices from the third quarter 1986 level of 1.040. Since the fourth quarter 1986 RCAF is below the level of a prior RCAF, no rate actions are ordered.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek, (202) 275-0938; Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: By decision served January 2, 1985 (50 FR 87, January 2, 1985) we outlined the procedures for the calculation of the all inclusive index of railroad input costs and the methodology for the computation of the RCAF. These procedures replaced an interim methodology which was formerly used. AAR is required to calculated the forecasted index on a quarterly basis and submit it on the fifth day of the last month of each calendar quarter.

We have reviewed AAR's calculations of the index for the fourth quarter of 1986 and find that, with the exception of the lease rental portion of the equipment rents component, these calculations comply with the rules contained in our decision served January 2, 1985. AAR's handling of lease rental is acceptable on an interim basis.

The indexing rules call for the lease rental portion of the equipment rents component of the index to be calculated using actual data. On November 15, 1985, AAR filed a petition to reopen this proceeding for the purpose of modifying our rule concerning this component. AAR's petition is currently under consideration. At this time we will continue to accept use of the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products as a surrogate for the lease rental portion of the equipment rents component of the index. We have previously observed that the lease rental portion of the index is only 2.4 percent of total and is not likely to have a major effect on the RCAF.

The index weights are updated on an annual basis to reflect the changing mix of the various index components. AAR has reclaculated the index weights to 1985 levels and has used them for the first time in the calculation of the fourth quarter 1986 RCAF. We have reviewed AAR's calculations and find them to be acceptable.

In our decision served December 27, 1985, we restated a lump sum payment to certain members of the United Transportation Union (TU) by amortizing it over the life of the present union contract with interest at the three-month Treasury Bill interest rate. We instructed AAR to continue this calculation by amortizing the principal balance over the remaining quarters using a three-month Treasury Bill interest rate available seven days prior to the submission date of the quarterly index. A new labor contract with the Sheet Metal Workers' International Association became effective during the third quarter of 1986. This contract also contained a lum sum provision. We have verified the calculations for this and other lump sum payments and find that they comply with our instructions.

We find the RCAF for the forth quarter of 1986 to be 1.044. This is an increase of .004 or .4 percent from the third quarter of 1986. Since the fourth quarter RCAF is below a previously higher level, no rate actions are ordered.

The indices and RCAF derived from AAR's fourth quarter 1986 calculations are shown in Table A of the Appendix to this decision. Table B shows the second quarter 1986 index calculated on both an actual basis and a forecasted basis for comparative purposes.

On May 1, 1986 we issued a Notice of Proposed Rulemaking (NPR) which sought comments on certain changes in our final rules in this proceeding which were issued on January 2, 1985. We proposed that rates increased when the RCAF increased must also be decreased when the RCAF declines. Comments were also solicited on adjusting the RCAF for forecast error. That NPR also stated that action on petitions for reconsideration of the first quarter 1986 RCAF, adjustments to the second quarter 1986 RCAF and final notice was issued.

Although the NPR did schedule an expedited comment period, extensions were granted. Comments were due on May 23, 1986 and replies on June 2, 1986. On August 7, 1986 we held an open voting conference concerning changes in the rules and other related matters in this proceeding. A decision implementing the revised rules and their impact on each of the RCAF decisions for the four quarters of 1986 will be issued shortly. Since the rules have not been changed at this time, no rate actions are ordered because the fourth quarter 1986 RCAF is below the level of prior RCAF (first quarter 1986; 1.069).

We have reviewed AAR's analysis of the new labor contracts and their effect on the wage rates used in the calculation of the labor portion of the index and find it to be acceptable. AAR is requested to quatify the effects on these contract conditions in its first quarter 1987 index submission.

This decision will not significantly affect the quality of the human environment or the conservation of

energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate incrase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: September 16, 1986.

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

Noreta R. McGee,

Secretary.

TABLE A.—EX PARTE 290 (SUB-NO. 2)

[All inclusive index of railroad input costs]

Line No. and Index component	1984 weights (percent)	1985 weights (percent)	Third quarter 1986 [1] forecast	Fourth quarter 1986 [2] forecast
1. Labor	50.5	48.6	153.5	156.2
2 Fuel	10.8	9.7	51.7	49.2
3. Materials and supplies	7.8	7.6	105.9	104.2
4. Equipment Rents	9.4	9.0	151.9	145.6
5. Depreciation	7.4	8.7	116.8	117.2
6. Other items [3]	14.1	16.4	120.4	120.9
7. Weighted Average	100.0	100.0	131.3	131.7
8. Linked index [4]			125.7	126.2
9. Rail Cost Adjustment Factor [5] (10/1/82=100) 120.9			1.040	1.044

[1] Third quarter 1986 Rail Cost Adjustment Factor calculated using 1984 weights.

[2] Fourth quarter 1986 Rail Cost Adjustment Factor calculated using 1985 weights.

[3] Other items are a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes and Loss and Damage, all of which are measured by the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products.

[4] Linking is necessitated by a change to 1985 weights beginning with the fourth quarter 1986. The following formula was used for the third quarter 1986 index:

$$\frac{\text{4th Quarter 1986 Index (1985 Weights)}}{\text{3rd Quarter 1986 Index (1985 Weights)}} \times \text{3rd Quarter 1986 Index (Linked Index)} = \text{Linked Index (1980 Weights to 1984 Weights)}$$

or:

$$\frac{131.7}{131.2} \times 125.7 = 126.2$$

[5] The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

TABLE B.—EX PARTE 290 (SUB-NO. 2)

[Comparison of Second Quarter 1986 Index Calculated on Both a Forecasted and an Actual Basis]

Line No. and Index component	1984 weights (percent)	Second quarter 1986 forecast	Second quarter 1986 actual
1. Labor	50.5	149.7	149.7
2. Fuel	10.8	51.7	55.8
3. Materials and supplies	7.8	105.2	105.2
4. Equipment rents	9.4	151.8	152.1
5. Depreciation	7.4	116.4	116.5
6. Other items	14.1	120.2	120.5

TABLE B.—EX PARTE 290 (SUB-NO. 2)—Continued

[Comparison of Second Quarter 1986 Index Calculated on Both a Forecasted and an Actual Basis]

Line No. and Index component	1984 weights (percent)	Second quarter 1986 forecast	Second quarter 1986 actual
7. Weighted average	100.0	129.2	129.7
8. Linked index		123.7	124.2
9. Rail cost adjustment factor		1.023	[1] 1.027

[1] For comparative purposes only, an RCAF for the second quarter 1986 has been calculated using actual data. The published RCAF for the second quarter 1986 was computed using forecasted data.

[FR Doc. 86-21479 Filed 9-22-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public. List of Recordkeeping/Reporting requirements under review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OBM) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, telephone (202) 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Assistant Secretary for Veterans' Employment and Training
Eligibility Data Form for Requesting Assistance in Obtaining Veterans' Employment and Training
1293-0002
Other (at time of complaint)
Individuals or households
2,500 responses; 625 hours

The information is needed to determine eligibility of veteran complaints for reemployment rights they are seeking as well as to State alleged violations by employers of the pertinent statutes and request assistance in obtaining appropriate reemployment benefits.

Employment and Training Administration
Business Confidential Data Request
1205-0197; ETA 8572, ETA 8573-A, B, C, D, E, F, G, H, I, AA, BB
On occasion
Business or other for-profit; Small businesses or organizations
1,240 respondents; 2,480 hours; 12 forms

Statutory requirements under the Trade Act of 1974 as amended require complete and accurate business confidential data in order to make determinations as to whether imports have contributed to worker separation. The Secretary of Labor's determination decide if petitioning workers are eligible to apply for worker adjustment assistance.

Employment and Training Administration
Job Corps Placement and Assistance Record

1205–0035; ETA 678
On occasion
State or local governments; Non-profit institutions
60,000 responses; 43,800 burden hours; 1 form

This information is used for evaluating overall program effectiveness. Each item must be completed in order to supply information to JC, USDOL. JC Centers complete part; Placement Agencies complete part. (JC Centers act as placement agencies in making and reporting placement directly). The authority for the placement activity is derived from 20 CFR 684.40 (a), (b), (c) and (d)(6).

Revision

Employment and Training Administration
National Longitudinal Survey—Survey of Work Experience of Young Women
1205–0044; LGT 4131 LGT 4133
Annually; Bienially
Individuals or households
3,704 respondents; 1,408 hours; 2 surveys

The Department of Labor will use this information to determine the employment and training needs and develop labor market policies designed to ease the employment and unemployment problems faced by women 33–43. These women were 14–24 years of age when this logitudinal survey began in 1968.

Signed at Washington, DC, this 18th day of September 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86–21538 Filed 9–22–86; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

[TA–W–17,301]

Inspiration Mines, Inc., Tennessee Zinc Division, Jefferson City, TN; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 86–19297 appearing on page 30447 in the **Federal Register** of August 26, 1986, the above referenced company name and location placed under Negative Determinations is corrected by deleting from under Negative Determinations and inserting company name and location under Affirmative Determinations as follows:

Affirmative Determinations:

TA–W–17,301; Inspiration Mines, Inc., Tennessee Zinc Div., Jefferson City, TN.

Signed at Washington, DC, this 15th day of September 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–21548 Filed 9–22–86; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–86–122–C]

A.&J. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

A.&J. Coal Company, 120 Main Street, Joliett, Pennsylvania 17981, has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its K R & R Slope (I.D. No. 36–06031) located in Schuylkill County, Pennslyvania. 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 track haulage cars be equipped with automatic couplers.

2. Petitioner states that installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the systems of haulage.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 4015, Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86–21539 Filed 9–22–86; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–86–115–C]

Atascosa Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Atascosa Mining Company, P.O. Box 850, Jourdanton, Texas 78026 has filed a petition to modify the application of 30 CFR 77.216–3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its San Miguel Lignite Mine (I.D. No. 41–02840) located in Atascosa County, Texas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments which meet the requirements of standard 77.216(a) be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions.

2. As an alternate method, petitioner proposes to inspect the ponds on a monthly basis.

3. Petitioner states that the San Miguel Lignite Mine ponds serve as diversion and sediment ponds for undisturbed, disturbed and reclaimed areas. Under Texas coal mining regulations, sediment ponds must provide the required theoretical detention time (24 hours) for inflow from the 10-year, 24-hour precipitation event or a demonstration that pond design will provide equivalent sediment removal efficiency with shorter detention times. In order to meet this requirement, water must be released from ponds as soon as it meets effluent limitations. Therefore, ponds are rarely full and are maintained at the sediment pool level. A safety inspection frequency of once per month would detect any increase in phreatic level which might cause leakage.

4. The San Miguel Lignite Mine terrain is very flat resulting in topography downstream of the impoundments which lacks the fall of elevation which would give released water appreciable acceleration. Any water released by an impoundment failure would encounter the haul road before leaving the site. Water would be routed through culverts and would run too slowly and dissipate energy too rapidly to pose a hazard to miners on the mine or to people or property off the mine site. There are no structures immediately downstream of any of the impoundments.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miner 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 October 23, 1986. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: September 12, 1986.

[FR Doc. 86-21540 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-113-C]

Betty B. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Betty B. Coal Company, P.O. Box 1139, Coeburn, Virginia 24230 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device) to its No. 11 Mine (I.D. No. 44-04204) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-86-114-C), petitioner proposes to use the belt entry as an intake airway.

3. In lieu of a heat detection system, petitioner proposes to use an early warning fire detection system using a low-level carbon monoxide detection system. The system will be installed and operated with specific conditions in all belt entries used as intake aircourses.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21541 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-114-C]

Betty B. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Betty B. Coal Company, P.O. Box 1139, Coeburn, Virginia 24230 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 11 Mine (I.D. No. 44-04204) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. Petitioner states that the barrier of coal which is being developed lies between areas of the mine which were abandoned between the 1960's and late 1970's. Due to the close proximity of the old works, only there entires could be rehabilitated from the surface. One of these entries will contain the track which will be the main intake, one will contain the belt conveyor, and one will contain the main return. Another intake could not be developed due to mined out areas to the right of the portal. The one intake entry from the surface will not be sufficient to maintain adequate ventilation for four continuous mining units.

3. As an alternate method, petitioner proposes to use the belt entry as an intake airway. In support of this, petitioner states that:

(a) A low-level carbon monoxide system will be placed in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake aircourses except in specified situations. The monitoring devices will be capable of giving warning of a fire for four hours; visual alert signal will be activated when the carbon monoxide level is 10 parts per million (ppm) above ambient air and an audible signal at 15 ppm above ambient air. All persons will be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal will be activated at an attended surface location where there is two-way communication. The carbon monoxide system will be capable of identifying any activated sensor and monitoring electrical continuity.

(b) The carbon monoxide monitoring system will be visually examined at least once each coal-producing shift and tested for functional operation on a weekly basis. The monitoring system will be calibrated with known concentrations of carbon monoxide and air mixtures on a monthly basis. A record of all inspections will be maintained on the surface.

(c) If the carbon monoxide monitoring system is deenergized, qualified persons will monitor the belt conveyor using hand-held carbon monoxide detecting devices.

(d) The permanent stoppings separating the conveyor belt entries from the intake escapeway will be specifically approved in the ventilation system and methane and dust control plan for the mine.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that Office on or before October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21542 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-98-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 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 Lamber Fork No. 2 Mine (I.D. No. 44-06175) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that high voltage vacuum breakers and transformers are located in the belt entry splits of air. The transformers are dry-type containing no flammable hydraulic oil except for capacitors in power centers which may contain up to a total of three gallons of flammable liquid.

3. In a separate petition (M-86-96-C), petitioner proposes to install an early warning fire detection system, using a low-level carbon monoxide detection system in all belt entries used as intake aircourses.

4. As an alternate method of compliance with standard 75.1105, petitioner proposes to locate the transformers and vacuum breakers in the belt entry splits of air, and maintain the carbon monoxide detection system in the belt entries.

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 October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21543 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-73-C]

Drummond Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mary Lee No. 2 Mine (I.D. No. 01-00821) located in Walker 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 intake and return air courses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. Petitioner states that low seam heights, spauling roof conditions and lengthy air courses restrict the normal air flow. The belt haulage entry, however, is brushed to an average height of approximately 7½ feet which alleviates much of the restriction to normal air flow encountered in adjacent entries. Therefore, air traveling the intake air course has a tendency to pull to the belt neutral entry.

3. As an alternate method petitioner proposes to utilize the belt entries as intake entries. This will eliminate any possible dead air areas and prevent possible air reversals due to changes in ventilating pressure. it will provide some increase in air volume in the last open cross-cut, and will provide extra flexibility in directing more air to dilute any concentrations of methane which may occur at the working faces. In support of this, petitioner states that:

a. The belt entries are in brushed headings and this will allow for greater air flow to the face area, since the ceilings in these entries are higher than in the low seam intake entries;

b. The belt entry will continue to be used as travelways and will continue to keep its battery charging stations located on the belt entries ventilated directly to the return air, to prevent any fumes from reaching the workers on the face;

c. The belt entries which are used as intake entries will be separated from other intake and return entries with continuous permanent stoppings;

d. A carbon monoxide (CO) monitoring system will be installed in all belt entries used as intake entries. These monitors will be visually examined on a daily basis and will be examined for proper operation of safety features on a weekly basis. The monitors will be calibrated with a known concentration of carbon monoxide monthly;

e. A surface CO monitor terminal will be installed at a location where a responsible person has an assigned post of duty and has a telephone or equivalent communication with all persons who may be endangered. This system will give an alert signal when any monitor detects a CO concentration 10 ppm above the ambient CO level in the mine and will continue until the ambient CO level is reduced to less than 10 ppm above the ambient CO level. The monitor located at or near each section loading point in the mine will give an audible alarm when the CO concentration is detected at 15 ppm above the ambient CO level, and all persons will be withdrawn to the nearest communication station; and

f. Whenever the CO monitor is de-energized the belt entry will be patrolled and physically monitored by a qualified person with CO detector tubes until the monitor returns to normal operations and the belt conveyor may continue to operate.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21544 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-118-C]

Navasota Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Navasota Mining Company, Inc., P.O. Box EF, College Station, Texas 77840 has filed a petition to modify the application of 30 CFR 77.216-3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its Gibbons Creek Lignite Mine (I.D. No. 41-02847) located in Grimes County, Texas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments which meet the requirements of standard 77.216(a) be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural

weakness and other hazardous conditions.

2. As an alternate method, petitioner proposes to inspect the ponds on a monthly basis.

3. Petitioner states that the San Miguel Lignite Mine ponds serve as diversion and sediment ponds for undisturbed, disturbed and reclaimed areas. Under Texas coal mining regulations, sediment ponds must provide the required theoretical detention time (24 hours) for inflow from the 10-year, 24-hour precipitation event or a demonstration that pond design will provide equivalent sediment removal efficiency with shorter detention times. In order to meet this requirement, water must be released from ponds as soon as it meets effluent limitations. Therefore, ponds are rarely full and are maintained at the sediment pool level. A safety inspection frequency of once per month would detect any increase in phreatic level which might cause leakage.

4. The Gibbons Creek Lignite Mine terrain is very flat resulting in topography downstream of the impoundments which lacks the fall of elevation which would give released water appreciable acceleration. Any water released by an impoundment failure would encounter the haul road before leaving the site. Water would be routed through culverts and would run too slowly and dissipate energy too rapidly to pose a hazard to miners on the mine or to people or property off the mine site. There are no structures immediately downstream of any of the impoundments.

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 October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21545 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-120-C]

Quarto Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Quarto Mining Company, P.O. Box 231, Clarington, Ohio 43915 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 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 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. Petitioner states that the longwall mining system will increase in width and that this increase will require additional horsepower to power the armored face conveyor. In order to supply power to such a system from a power system limited to 1000 volts, the following problems arise.

(a) The ampacity requirements at 1000 volts are such that very large and heavy cables are required. These large, heavy cables can cause congested work space, handling problems and accidents associated with sprains and strains;

(b) Poor voltage regulation resulting in motor overheating and lack of torque to be applied to the face conveyor; and

(c) A diminished safety factor when interrupting limits of the available circuit breakers at 1000 volts.

3. As an alternate method, petitioner proposes to use high-voltage (4,160 volt) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be fixed 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 October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21546 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-109-C]

R.&L. Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

R.&L. Coals, Inc., Route 1, Box 53, Pennington Gap, Virginia 24277 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-14101) located in Harlan 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. The mine ranges from 47 to 51½ inches in height. The mine floor is very wet and requires gravel at certain intervals to operate the equipment. The equipment being used has been modified with 2" lift kits and 1450 x 15 tires for ground clearance.

3. Due to insufficient clearance between the floor and roof, installation of the canopies would damage the roof bolts. In addition, the canopies would obstruct the equipment operator's vision.

4. Petitioner is installing wooden planks in combination with roof bolts and headers to minimize the danger of injury due to roof falls.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 23, 1986. Copies of the petition are available for inspection at that address.

Dated: September 12, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-21547 Filed 9-22-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1–5 of Executive order 12196 of February 26, 1980, pubished in the Federal Register, February 27, 1980 (45 FR 12769), will meet on October 8, 1986, starting at 10:00 a.m. in Room N3437 ABCD, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Introduction of New Members
III. Proposed changes to Articles of Organization
IV. Approval of Minutes of Last Meeting
V. Election of Vice Chairman
VI. Hazard Communications Update
VII. Discussion of Representation at Agency Abatement Sessions
VIII. 41st Annual Federal Safety and Health Conference
IX. Revision of Subpart I, 29 CFR 1960 and 2014 Publication
X. Discussion of Subcommittee on Occupational Health Mission and Function Statement
XI New Business
XII. Adjournment

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 3, 1986, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business October 3, 1986. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue NW., Room N3613, Washington, DC 20210, telephone (202) 523–9329.

Signed at Washington, DC, this 19th day of September 1986.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 86–21613 Filed 9–22–86; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86–67]

NASA Advisory Council, Aeronautics Advisory Committee, (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Rotorcraft Noise and Vibration Research.

DATE: October 14, 1986, 8:30 a.m. to 5 p.m., and October 15, 19876, 1 p.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue SW., Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. John Burks, Code RJ, National Aeronautics and Space Administration, Washington, DC 20546 (202/435–2798).

SUPPLEMENTARY INFORMATION: The Aeronautics Advisory Committee (AAC) was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc subcommittees are formed to address specific topics. The ad hoc subcommittee on Rotorcraft Noise and Vibration Research, chaired by Mr. Al Schoen, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the subcommittee members and other participants).

Type of Meeting: Open.

Agenda

October 4, 1986
8:30 a.m.—Organization, Scope, Charter of Subcommittee.
9:30 a.m.—Technical Briefing by NASA Personnel.
5:00 p.m.—Adjourn.

October 15, 1986
1:00 p.m.—Discussion and Assignment of Actions.
4:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 16, 1986.

[FR Doc. 86–21472 Filed 9–22–86; 8:45 am]

BILLING CODE 7510–01–M

[Notice 86–66]

NASA Advisory Council Task Force on Issues of a Mixed Fleet of Launch Systems; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Task Force on Issues of a Mixed Fleet of Launch Systems.

DATE: October 8, 1986, 9 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue SW., Washington, DC 20546, Room 625T.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–8340).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Task Force on Issues of a Mixed Fleet of Launch Systems was established under the NASA Advisory Council to counsel NASA on the development of the appropriate policies, programs, priorities, and practices for a mixed fleet consisting of the Space Shuttle and appropriate expendable launch vehicles. The Task Force, chaired by Jasper Welch, has a total of 10 members.

The meeting will be closed to the public from 1:15 p.m. to 3 p.m. for a discussion of qualifications of candidates to participate in the Task Force as additional members. Because this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

Visitors will be admitted to the meeting room up to the capacity, which is approximately 40 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open—except for the closed session as noted in the following agenda.

Agenda

October 8, 1986
9 a.m.—Opening Remarks.
9:15 a.m.—Discussion of Market Demand for a Mixed Fleet.
11 a.m.—Discussion of Availability of a Mixed Fleet.
1:15 p.m.—Planning Session (closed).
3 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management officer, National Aeronautics and Space Administration.

September 17, 1986.

[FR Doc. 86-21476 Filed 9-22-86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-68]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NADA Advisory Council, Space and Earth Science Advisory Committee, Space Station Task Force.

DATE: October 15-17, 1986, 8:30 a.m. to 7 p.m.

ADDRESS: Sheraton Key Largo, Conference Rooms A and B, 97000 South Overseas Highway, U.S. 1, Key Largo, Florida 33037.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Sade, Code E, NASA Headquarters, Washington, DC 20546 (202)/453-1430).

SUPPLEMENTARY INFORMATION: The Space Station Task Force was established under the NAC Space and Earth Science Advisory Committee to counsel NASA on plans for and work in progress on the scientific utilization of the new capabilities which will be afforded by the Space Station, including the relationship of these plans to the existing space science program. This advice includes periodic updates of scientific requirements on Space Station hardware and operations and interaction with NASA during the definition phase of the Space Station program. This meeting will be open to the public up to the seating capacity of the room (approximately 100 persons, including Committee members and other invited participants).

Type of Meeting: Open.

Agenda

October 15, 1986
8:30 a.m.—Welcome and General Overview.
9 a.m.—NASA Plans for Science on Space Station.
2:30 p.m.—Views from Other Advisory Committees.
4 p.m.—Discussion of Future Committee.
5 p.m.—Discipline Team Meetings.
7 p.m.—Adjourn.

October 16, 1986
8:30 a.m.—Space Station Design/ Development.
2:30 p.m.—Discipline Team Meetings.
7 p.m.—Adjourn.

October 17, 1986
8:30 a.m.—Space Station Evolution.
10:30 a.m.—Formulation of Recommendations.
2:30 p.m.—Discussion with Program Management.
4 p.m.—Preparation of Written Recommendations.
7 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 16, 1986.

[FR Doc. 86-21473 Filed 9-22-86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-69]

NASA Advisory Council, Space Systems and Technology Advisory Committee, (SSTAC) Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amened, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee. Ad Hoc Review Team on Large Space Structures.

DATE: October 20, 1986, 8 a.m. to 12:30 p.m.

ADDRESS: Ames Research Center, Building 200, Room 215, National Aeronautics and Space Administration, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Blankenship, Langley Research Center, Hampton, VA 23665 (804/865-2042).

SUPPLEMENTARY INFORMATION: The Space System and Techology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc subcommittees are formed to address specific topics. The Ad Hoc Subcommittee on Large Space Structures, chaired by Dr. John Hedgepeth, is comprised of 6 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the subcommittee members and other participants).

Type of Meeting; Open.

Agenada

October 20, 1986
8:00 a.m.—Opening Remarks.
8:30 a.m.—Briefing on NASA Mission Model for Large Space Structures.
9:30 a.m.—Discussion of Study Plans.
12:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 17, 1986.

[FR Doc. 86-21474 Filed 9-22-86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-70]

NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on Engineering Use of Space Station as a Laboratory.

DATE: October 22, 1986, 9 a.m. to 12:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue SW., Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. James Romero, Code RS, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2738).

SUPPLEMENTARY INFORMATION: The Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc subcommittees are formed to

address specific topics. The Ad Hoc Subcommittee on Engineering Use of Space Station as a Laboratory, chaired by Mr. Robert Hager, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the subcommittee members and other participants).

Type of Meeting: Open.

Agenda

October 22, 1986

9:00 a.m.—Discussion of Organization, Charter and Scope of Subcommittee.

10:00 a.m.—Assignment of Study Tasks.

11:00 a.m.—Formulation of Review Meeting Schedule.

12:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 17, 1986.

[FR Doc. 86-21475 Filed 9-22-86; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-364 (License No. SNM-414)]

Babcock and Wilcox; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that Ms. Frances Munko and Mrs. Mildred Chelko, by letters dated July 31, and August 1, 1986, respectively, have requested that the Nuclear Regulatory Commission institute a proceeding pursuant to 10 CFR 2.206 to revoke the license for the Babcock and Wilcox Parks Township facility and to require the licensee to decontaminate the facility and any contamination in other locations resulting from licensed activities. The bases for the requested action are: (1) That the licensee has terminated fuel production operations at the site which is the activity authorized under the current license, and (2) that releases from past activities and residual contamination pose a threat to the petitioners' health and safety.

These letters are being handled as requests for action pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the requests within a reasonable time. Copies of the letters are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Dated at Silver Spring, Maryland, this 11th day of September, 1986.

For the Nuclear Regulatory Commission.

Donald B. Mausshardt,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 86-21527 Filed 9-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Millstone Nuclear Energy Co. et al.; Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company, et al. (the licensee) for withdrawal of its September 2, 1983 application for amendment to Facility Operating License No. DPR-65 for the Millstone Nuclear Power Station, Unit 2, located in the town of Waterford, Connecticut. The proposed amendment would have revised the Technical Specifications with regard to criteria for excluding a small number of steam generator tubes from eddy current testing. By letter dated August 26, 1986 the licensee withdrew its application for the proposed amendment.

The Commission issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 26, 1983 (48 FR 49589).

For further details with respect to this action, see (1) the application for amendment dated September 26, 1983 as amended by letter dated February 8, 1985; (2) the licensee's letter dated August 26, 1986, withdrawing the application for license amendment; and (3) the Commission's letter granting the withdrawal dated September 16, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut.

Dated this 16th day of September, 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 86-21526 Filed 9-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-277]

Philadelphia Electric Co. et al.; Withdrawal of Application for Amendment to Facility Operating License

In the matter of Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company.

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Philadelphia Electric Company, et al. (the licensee) to withdraw its September 28, 1984 application for proposed amendment to Facility Operating License No. DPR-44 for the Peach Bottom Atomic Power Station, Unit 2, located in York County, Pennsylvania. The proposed amendment would have revised the provisions in the Technical Specifications to permit testing of hydrogen injection. The Commission issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 10, 1984 (49 FR 39761). By letter dated July 21, 1986 the licensee withdrew its application for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1984; and (2) the licensee's letter dated July 21, 1986, withdrawing the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated this 12th day of September, 1986

Daniel R. Muller,

Director, BWR Project Directorate #2, Division of BWR Licensing.

[FR Doc. 86-21524 Filed 9-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; (James A. FitzPatrick Nuclear Power Plant) Exemption

I

The Power Authority of the State of New York (PASNY/the licensee) is the holder of Facility Operating License No. DPR-59 which authorizes the licensee to operate the James A. FitzPatrick Nuclear Power Plant (the facility) at power levels not in excess of 2436 megawatts

thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

By letter dated June 14, 1985, the Power Authority of the State of New York, requested an exemption from the requirements of Appendix R to 10 CFR Part 50, Section III.L, Items III.L.1.b and III.L.2.b. These items require that the reactor coolant make-up function associated with the alternative/dedicated shutdown system provided for a specific fire area be capable of maintaining the reactor coolant level above the top of the core for BWRs (III.L.2.b) and, thus, assure that the system has the capability to maintain the reactor coolant inventory (III.L.1.b). In their submittal, the licensee requested this exemption, specifically, for a fire event that renders the control room uninhabitable and results in loss of control functions for safe shutdown in the control room.

The request for exemption is a result of a revised determination made by the licensee, of the time required for an operator to regain control functions for reactor shutdown at the remote alternate shutdown panels, after manual scram of the reactor following a control room fire. The required time has been revised from the currently allowed 10 minutes to 30 minutes. This increase in operator action time would result in a temporary uncovery of the top of the core for a maximum duration of 150 seconds. (At 10 minutes, no uncovery of the core occurs.)

The licensee's submittal dated June 14, 1985 refers to a previously approved (by Safety Evaluation Report dated April 26, 1983) alternate method of achieving remote reactor shutdown. Under the assumption of a loss of all high pressure reactor coolant makeup systems, this method employs the Automatic Depressurization System (ADS) in conjunction with the Residual Heat Removal (RHR) system in the Low Pressure Coolant Injection (LPCI) mode of operation. An analysis performed by General Electric (GE) for the licensee using this method of alternate shutdown and an extended operator action time of 30 minutes has indicated that the extended operator action time does not pose any threat to the fuel cladding integrity or the suppression pool (SP) integrity. The analysis also has indicated that the ability of ADS to discharge low pressure subcooled reactor water to the SP after the vessel is filled would not be compromised. On request from the staff, the licensee provided (by letter dated December 17, 1985), the GE analysis, titled "Analysis to Extend Operator Action Time for Alternate Shutdown Panels in Support of FitzPatrick Compliance to Appendix R."

The staff has reviewed the licensee's request for exemption and the supporting documentation cited above with regard to the impact of a maximum operator action time of 30 minutes on fuel cladding integrity, the ability of the SP to condense discharged steam via the safety relief valves (SRVs) and the ability of the SP to provide adequate net positive suction head (NPSH) to the RHR/LPCI pump. The staff has also considered other associated issues such as (1) the licensee's capability to complete the needed operator action within 30 minutes to regain control of safe shutdown functions at the alternate shutdown panels, (2) adequate training for the operators to perform the needed manual operations for achieving safe shutdown utilizing the above alternate shutdown method, and (3) emergency lighting and communciations capability which would be needed to perform these operations.

Based on this review, the staff has determined that the analysis is sufficiently conservative and that the licensee has demonstrated that a maximum operator action time of 30 minutes for utilizing the above-mentioned alternate shutdown methods does not pose a threat to the fuel cladding integrity. Furthermore, the staff has determined that an operator action time of 30 minutes will not compromise the ability of the SP to condense steam in a stable condition during steam discharge via SRVs, or compromise the integrity of the SP. With regard to possible cavitation of the RHR/LPCI pump, the staff has determined that the available NPSH at the peak SP temperature and associated pressure is well above the minimum NPSH required to prevent cavitation and, therefore, an operator action time of 30 minutes will not compromise the ability of the above alternate shutdown method to achieve cold shutdown.

On these bases, the staff finds the licensee's requested exemption from the requirements of Items III.L.1.b and III.L.2.b of Section III.L of Appendix R to 10 CFR Part 50, insofar as they relate to maintaining the reactor coolant level above the top of the core for BWRs, to be justified and acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule-to ensure the ability to effect safe shutdown of the plant through the use of an alternative/dedicated shutdown system provided for a specific fire area; in this case, for a fire that renders the control room uninhabitable. The licensee has demonstrated that, under this scenario, notwithstanding the maximum time interval of 150 seconds during which the coolant level would drop below the top of the core, safe shutdown could be affected from the remote shutdown panels under an operator action time of 30 minutes using approved alternate shutdown procedures. Accordingly, the Commission hereby grants an exemption, as described in Section II above, from Section III.L, Items III.L.1.b and III.L.2.b of Appendix R to 10 CFR Part 50, to the extent that the reactor coolant level be permitted to drop below the top of the core during the use of alternate safe shutdown procedures following a fire which renders the control room uninhabitable.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (51 FR 31990).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 15th day of September 1986.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-21525 Filed 9-22-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in excepted service, as required by civil service rule

VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on August 26, 1986 (51 FR 30458). Individual authorities established or revoked under Schedule A, B, or C between August 1, 1986, and August 31, 1986, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedules A and B

No Schedule A or B exceptions were established or revoked during August.

Schedule C

Department of Agriculture

One Confidential Assistant to the General Counsel. Effective August 11, 1986.

One Private Secretary to the Assistant Secretary for Food and Consumer Services. Effective August 14, 1986.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective August 14, 1986.

One Private Secretary to the Assistant Secretary for Marketing and Inspection Services. Effective August 14, 1986.

One Private Secretary to the Administrator, Farmers Home Administration. Effective August 19, 1986.

One Secretary (Typing) to the Secretary. Effective August 21, 1986.

One Private Secretary to the Assistant Secretary for Natural Resources and Environment. Effective August 21, 1986.

One Confidential Assistant to the Chief, Soil Conservation Service. Effective August 22, 1986.

One Assistant Deputy Administrator to the Deputy Administrator, State and County Operation, Agricultural Stabilization and Conservation Service. Effective August 26, 1986.

One Special Assistant to the Assistant Secretary for Marketing and Inspections Services. Effective August 26, 1986.

One Confidential Assistant for Legislative Affairs to the Deputy Administrator, Policy and Program Support. Effective August 28, 1986.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective August 29, 1986.

Department of the Air Force

One Staff Assistant to the Secretary of the Air Force. Effective August 19, 1986.

Department of Commerce

One Confidential Assistant to the Deputy Secretary. Effective August 1, 1986.

One Confidential Aide to the Special Assistant to the Deputy Secretary. Effective August 5, 1986.

One Congessional Liaison Officer to the Assistant Secretary for Economic Development. Effective August 11, 1986.

One Congressional Liaison Specialist to the Director, Congressional Relations Staff, Economic Development Administration. Effective August 14, 1986.

One Confidential Assistant to the General Counsel. Effective August 21, 1986.

Department of Defense

One Special Assistant to the Deputy Assistant Secretary of Defense, East Asia and Pacific Affairs. Effective August 19, 1986.

One Private Secretary to the Assistant Secretary of Defense. Effective August 28, 1986.

Department of Education

One Confidential Assistant to the Deputy Under Secretary for Management. Effective August 1, 1986.

One Confidential Assistant to the Executive Secretary. Effective August 11, 1986.

One Special Assistant to the Assistant Secretary for Postsecondary Education. Effective August 14, 1986.

One Special Assistant to the Director, Intergovernmental Advisory Council, Office of Intergovernmental and Interagency Affairs. Effective August 14, 1986.

One Special Assistant to the Special Assistant to the Secretary. Effective August 21, 1986.

One Executive Assistant to the Deputy Under Secretary for Intergovernment and Interagency Affairs. Effective August 22, 1986.

One Special Assistant to the Deputy Under Secretary for Managment. Effective August 22, 1986.

Department of Energy

One Special Projects Liaison Specialist to the Director, Office of Public Liaison, Office of the Assistant Secretary for Congressional, Intergovernmental & Public Affairs. Effective August 20, 1986.

One Technical Advisor to a Member of the Federal Energy Regulatory Commission. Effective August 27, 1986.

One Deputy Director to the Director, Office of Public Liaison. Effective August 28, 1986.

One Confidential Assistant (Secretary) to the Assistant Secretary for Nuclear Energy. Effective August 29, 1986.

Department of Health and Human Services

One Special Assistant for Advisory Committees to the Special Assistant/Advisory Committee Officer. Effective August 14, 1986.

One Special Assistant to the Senior Advisor to the Commissioner for External Affairs. Effective August 15, 1986.

Two Confidential Assistants to the Director, Office of Legislation Policy, Health Care Financing Administration. Effective August 26, 1986.

One Confidential Assistant to the Administrator, Health Care Financing Administration. Effective August 29, 1986.

Department of Housing and Urban Development

One Special Assistant to the Regional Administrator-Regional Housing Commissioner. Effective August 5, 1986.

One Special Assistant to the Regional Administrator-Regional Housing Commissioner. Effective August 7, 1986.

One Assistant Director for Executive Secretariat Operations to the Executive Assistant to the Secretary. Effective August 13, 1986.

One Senior Legislation Specialist to the Deputy Assistant Seccretary for Legislation. Effective August 18, 1986.

One Assistant for Congressional Relations to the Deputy Assistant Secretary. Effective August 26, 1986.

One Special Assistant to the Secretary for Community Planning and Development. Effective August 26, 1986.

One Special Assistant to the Regional Administrator-Regional Housing Commissioner. Effective August 28, 1986.

One Special Assistant to the Assistant Secretary for Public and Indian Housing. Effective August 28, 1986.

Department of the Interior

One Congressional Liaison Officer to the Director, Minerals Management Service. Effective August 18, 1986.

Department of Justice

One Senior Liaison Officer to the Director, Office of Liaison Services. Effective August 12, 1986.

One Special Assistant to the Assistant Attorney General. Effective August 18, 1986.

One Confidential Assistant to the Director, Office of Liaison Services. Effective August 28, 1986.

Department of Labor

One Special Assistant to the Deputy Under Secretary for International Affairs. Effective August 6, 1986.

One Private Secretary to the Under Secretary. Effective August 12, 1986.

One Special Assistant to the Secretary. Effective August 13, 1986.

One Legislative Analyst to the Deputy Under Secretary for Congressional Affairs. Effective August 18, 1986.

One Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs. Effective August 26, 1986.

One Special Assistant to the Deputy Under Secretary for Public and Intergovernmental Affairs. Effective August 26, 1986.

One Secretary's Representative to the Associate Deputy Under Secretary for Intergovernmental Affairs. Effective August 26, 1986.

One Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs. Effective August 26, 1986.

One Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs. Effective August 29, 1986.

One Special Assistant to the Deputy Director, Women's Bureau. Effective August 29, 1986.

One Special Assistant to the Assistant Secretary for Veteran's Employment and Training. Effective August 29, 1986.

Department of State

One Special Assistant to the Assistant Secretary for the Bureau of Human Rights and Humanitarian Affairs. Effective August 22, 1986.

One Special Assistant to the Assistant Secretary for Inter-American Affairs. Effective August 26, 1986.

Department of Transportation

One Staff Assistant to the Deputy Secretary. Effective August 14, 1986.

Department of the Treasury

One Public Affairs Specialist to the Assitant Secretary. Effective August 11, 1986.

One Congressional Liaison Officer to the Associate Commissioner for Congressional and Public Affairs. Effective August 14, 1986.

One Confidential Assistant to the Director of Scheduling, Office of the Assistant Secretary. Effective August 14, 1986.

One Special Assistant to the Deputy Assistant Secretary for Departmental Management. Effective August 18, 1986.

One Confidential Secretary to the Secretary of the Treasury. Effective August 21, 1986.

Action

One Assistant Director to the Associate Director, Legislative, Public, and Intergovernmental Affairs. Effective August 29, 1986.

Agency for International Development

One Supervisory Public Affairs Specialist to the Deputy Assistant Administrator for Public Affairs. Effective August 14, 1986.

One Congressional Liaison Officer to the Associate Director for Legislative Affairs. Effective August 15, 1986.

One Administrative Operations Assistant to the Assistant Administrator, Bureau for External Affairs. Effective August 18, 1986.

One Special Assistant to the Director, Office of Public Liaison, Bureau of External Affairs. Effective August 27, 1986.

Arms Control and Disarmament Agency

One Secretary (Steno) to the Assistant Director, Nuclear and Weapons Control Bureau. Effective August 5, 1986.

Commodity Futures Trading Commission

One Administrative Assistant to a Commissioner. Effective August 18, 1986.

Consumer Product Safety Commission

One Staff Assistant to a Commissioner. Effective August 26, 1986.

Farm Credit Administrtion

One Confidential Assistant to the Director, Congressional and Public Affairs. Effective August 19, 1986.

Federal Home Loan Bank Board

One Staff Assistant to the Director of Communications. Effective August 18, 1986.

Federal Trade Commission

One Staff Assistant to the Commissioner. Effective August 26, 1986.

General Services Administration

One Director, Office of the Executive Secretariat, to the Administrator. Effective August 14, 1986.

International Trade Commission

One Staff Assistant (Economics) to the Chairman. Effective August 14, 1986.

One Staff Assistant to the Chairman. Effective August 25, 1986.

One Congressional Liaison to the Chairman. Effective August 28, 1986.

National Credit Union Administration

One Special Assistant to the Chairman. Effective August 18, 1986.

National Endowment for the Humanities

One Public Affairs Officer to the Deputy Chairman. Effective August 14, 1986.

Office of Management and Budget

One Administrative Assistant to the Executive Assistant to the Director. Effective August 8, 1986.

Office of Personnel Management

One Special Assistant to the Director, Office of Public Affairs. Effective August 25, 1986.

Securities and Exchange Commission

One Secretary (Steno) to the Director of Investment Management. Effective August 18, 1986.

Small Business Administration

One Special Assistant to the Regional Administrator. Effective August 12, 1986.

One Special Assistant to the Regional Administrator. Effective August 12, 1986.

One Special Assistant to the Assistant Administrator for Public Communications. Effective August 14, 1986.

U.S. Tax Court

One Secretary (Confidential Assistant) to a Judge. Effective August 1, 1986.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Public and Consumer Affairs. Effective August 8, 1986.

One Confidential Assistant to the Administrator. Effective August 29, 1986.

Authority: 5 U.S.C. 3301, 3302; EO 10577, 3 CFR Parts 1954–1958 Comp., P.218.

U.S. Office of Personnel Management

Constance Horner,

Director.

[FR Doc. 86–21537 Filed 9–22–86; 8:45 am]

BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5470]

East Coast Venture Capital, Inc.; Issuance of a Small Business Investment Company License

On February 26, 1986, a notice was published in the **Federal Register** (51FR6652) stating that an application has been filed by East Coast Venture Capital, Inc. with the Small Business Administration (SBA) pursuant to

§ 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business March 26, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–5470 on July 14, 1986, to East Coast Venture Capital, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 2, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86–21533 Filed 9–22–86; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0499]

Genesee Funding Corp.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR 107.102 (1986)) under the name of Genesee Funding Corporation (the Applicant), 183 East Main St., Suite 1450, Rochester, New York 14604 for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole stockholder of the Applicant are as follows:

Name and address	Title or relationship
A. Keene Bolton, 411 Antlers Drive, Rochester, New York 14618.	President, Chief Executive Officer, and Director.
James C. Galloway, 54 Knollbrook Drive, Rochester, New York 14610.	Vice President and Director.
Ronald B. Klineman, 22 Woodmont Road, Rochester, New York 14620.	Secretary and Director.
Melvin H. Damon, 46 Greylocke Ridge, Pittsford, New York 14534.	Director.
Ronald E. Follanshee, 70 Ramblewood Drive, North Chili, New York 14514.	Director.
Genesee Capital, Inc., Suite 1450, 183 East Main Street, Rochester, New York 14604.	100% Stockholder.

The only shareholder of Genesee Capital, Inc., who owns more than 10 percent of the outstanding stock is Mr. Bolton, President of the Applicant. The Applicant will begin operations with a capitalization of $1,000,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Rochester, New York area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 15, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86–21532 Filed 9–22–86; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0501]

MH Capital Investors, Inc.; Application for a Small Business Investment Company License

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, et seq.) (the Act) has been filed by MH Capital Investors, Inc. (the Applicant), 140 East 45th Street, Suite 3001, New York, New York 10017, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1986).

The officers, directors and sole shareholder of the Applicant are as follows:

Name and address	Title or relationship
Thomas J. Sandleitner, 39 Chesterfield Road, Scarsdale, New York 10583.	Chairman of the Board, Chief Executive Officer and Director.
Edward L. Koch, III, 1725 York Ave., #26A, New York, New York 10128.	President and Director
Kevin P. Falvey, 50 Ethelbert Place, Ridgewood, New Jersey 07450.	Executive Vice President, Director.
Bruno J. Degen, 9 Fairfield Terrace, West Nyack, New York 10994.	Secretary-Treasurer.
Manufactuers Hanover Trust Company, 270 Park Avenue, New York, New York 10017.	Owner of 100% of capital stock.

The Applicant will be a wholly owned subsidiary of Manufacturers Hanover Trust Company which is a wholly owned subsidiary of Manufacturers Hanover Corporation, a bank holding company, located at 270 Park Avenue, New York, New York 10017.

The Applicant, a Delaware Corporation, will begin operations with $20,000,000 of paid-in capital and paid-in surplus. The Applicant will conduct its activities primarily in the State of New York but will consider investments in businesses in other areas of the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L St., NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in the New York City area.

(Catalog of Federal Domestic Assistance Program No. 59–011. Small Business Investment Companies)

Dated: September 15, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86–21534 Filed 9–22–86; 8:45 am]

BILLING CODE 8025–01–M

[License No. 20/02-0439]

Transworld Ventures, Ltd.; License Surrender

Notice is hereby given that Transworld Ventures, Ltd. 65 East 80th Street, Suite 3B, New York, New York 10021, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Transworld Ventures, Ltd. was licensed by the Small Business Administration on September 17, 1982.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on July 29, 1986, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 2, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-21535 Filed 9-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 159—Minimum Aviation System Performance Standards for Global Positioning System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 159 on Minimum Aviation System Performance Standards for Global Positioning System to be held on October 15-17, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of Minutes of the Third Meeting; (3) Briefing on GPS Program Status; (4) Report of the Integrity Working Group Activities; (5) Review of Preliminary Draft of Committee Report; (6) Review of Draft Section on System Integrity; (7) Development of Committee Working Program and Schedule; (8) Assignment of Tasks; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 17, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86-21552 Filed 9-22-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meetings will be held October 23 and November 18, 1986.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC: AP:V, 1111 Constitution Avenue, NW., Room 2575, Washington DC, 20224, Telephone No. (202) 566-9259, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that closed meetings of the Art Advisory Panel will be held on October 23 in room 3302 and November 18 in Room 3313 beginning at 9:30 a.m., Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978. (43 FR 52122.)

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 86-21530 Filed 9-22-86; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Advisory Committee on Environmental Hazards; Meeting

The Veterans Administration gives notice under Pub. L. 92-463, section 10(a)(2), that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420 on November 17 and 18, 1986. The purposes of the Committee are to review the scientific and medical literature relating to the possible health effects resulting from exposure to dioxin and ionizing radiation and to assist in the development of Agency policy with respect to veterans' claims for compensation based upon exposure.

The meeting will convene at 9:00 a.m. both days in the Omar Bradley Conference Room. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Sylvia Arrington, Veterans Administration Central Office (phone 202/389-2115) prior to November 12, 1986.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Special Assistant to the General Counsel, Room 1034, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: September 12, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-21503 Filed 9-22-86; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam

Veterans will be held October 9 and 10, 1986, in the Omar Bradley Conference Room of Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Both meetings will begin at 8:00 a.m. and conclude at 4:30 p.m.

These meetings will be open to the public to the seating capacity of the room. Anyone having questions concerning the meetings may contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Veterans Administration Central Office, (phone number 202-389-3317/3303).

Dated: September 15, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-21504 Filed 9-22-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 184
Tuesday, September 23, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Board For International Broadcasting	1
Federal Energy Regulatory Commission	2
National Labor Relations Board	3
Nuclear Regulatory Commission	4
Tennessee Valley Authority	5

1

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:30 a.m. October 17, 1986.

PLACE: RFE/RL, Inc., 1201 Connecticut Ave., NW., Suite 1100, Washington, DC 20036.

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Bruce D. Porter, Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Ave., NW., Washington, DC 20036.

Bruce D. Porter,

Executive Director.

[FR Doc. 86-21617 Filed 9-18-86; 1:13 pm]

BILLING CODE 6155-01-M

1

FEDERAL ENERGY REGULATORY COMMISSION

September 18, 1986

TIME AND DATE: September 25, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 824d Meeting—September 25, 1986, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 7037-001, Okanogan Public Utility District
CAP-2.
Omitted
CAP-3.
Project Nos. 5376-002 and 003, Boise Cascade Corporation
CAP-4.
Project No. 2959-011, City of Seattle, Washington
CAP-5.
Project Nos. 8915-001, 7791-002 and 8235-002, Hydroelectric Development, Inc.
CAP-6.
Project No. 8499-002, City of Redding, California
CAP-7.
Project No. 2548-007, Georgia-Pacific Corporation
CAP-8.
Project No. 7706-000, Red Rock Hydro Partners
Project No. 7882-000, City of Des Moines, Iowa
Project No. 8511-000, Seward Development-Red Rock Associates
CAP-9.
Project No. 3991-002, STS Energenics Ltd.
CAP-10.
Docket No. ER86-272-003, Pacific Gas and Electric Company
CAP-11.
Docket No. ER86-615-000, Commonwealth Edison Company
CAP-12.
Docket No. ER86-622-000, Philadelphia Electric Company and Susquehanna Electric Company
CAP-13.
Docket Nos. ER86-638-000 and ER86-368-001, El Paso Electric Company
CAP-14.
Docket Nos. ER86-405-001, ER86-468-001 and ER86-517-001, Boston Edison Company
CAP-15.
Docket No. ER86-549-000, Illinois Power Company
CAP-16.
Docket No. QF86-686-000, Martin Marietta Aluminum Properties, Inc.
CAP-17.
Docket No. ER84-322-000, Pacific Gas and Electric Company
CAP-18.
Docket No. EL86-28-000, Unitil Power Corporation, Concord Electric Company and Exeter and Hampton Electric Company
Docket No. ER86-559-000, Unitil Power Corporation
Docket No. ER86-565-000, Public Service Company of New Hampshire
CAP-19.
Docket Nos. EL86-10-000 and ER84-579-006, Kentucky Power Company
CAP-20.
Docket No. ER86-361-001, Upper Peninsula Power Company
CAP-21.
Docket No. ER86-277-001, Central and South West Services, Inc.

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA85-71-001, Central Illinois Public Service Company
CAM-2.
Docket No. FA85-34-000, Stingray Pipeline Company
CAM-3.
Docket No. FA86 , Pacific Interstate Transmission Company, Pacific Offshore Pipeline Company, Pacific Interstate Offshore Company, Southern California Edison Company
CAM-4.
Docket No. RM85-1-000, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Kaiser-Francis Oil Company and Essex Exploration Company)
CAM-5.
Docket No. RM85-1-000, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Vessels Oil and Gas Company, Standard Gas Marketing Company and French Petroleum Corporation)
CAM-6.
Docket No. GP86-9-002, Consolidated Gas Transmission Corporation
Docket No. GP82-31-002, Mid-Louisiana Gas Company
Docket No. GP82-41-002, Columbia Gas Transmission Corporation
CAM-7.
Docket No. GP85-39-000, Commonwealth of Pennsylvania, Department of Environmental Resources, Section 102 Determinations, Appalachian Energy, Inc., Adrian Sorenson #1 well, FERC JD No. 80-32779; Richard C. Farver #1 well, FERC JD No. 80-45787; R. Marsh #1 well, FERC JD No. 81-2011; R.K. Farver #1 well, FERC JD No. 81-2012; A. Bishop #1 well, FERC JD No. 81-2013; B. Wilson #1 well, FERC, JD No. 81-9664; W. Wilson #1 well, FERC JD No. 81-10302; L. Meerdink #2 well, FERC JD No. 81-19066; B. Warner #1 well, FERC, JD No. 81-21756; R. Warner #1 well, FERC JD No. 81-47187
CAM-8.
Docket No. GP85-44-000, Commonwealth of Pennsylvania, Department of Environmental Resources, Section 102 Determinations, Merdian Exploration

Corporation, V. Mahan #570-1 well, FERC JD No. 82-20126, V. Mahan #583-3 well, FERC JD No. 82-26991

CAM-9.
Docket No. GP85-46-000, Commonwealth of Pennsylvania, Department of Environmental Resources, Section 102 Determinations, Victory Development Company, Kopp #1 well, FERC JD No. 83-30338; #1 Defense & Emergency Well, FERC JD No. 83-30335; #3 Defense & Emergency Well, FERC JD No. 83-30337; #1 Loins Recreation Center Well, FERC JD No. 83-30336; #2 Loins Recreation Center Well, FERC JD No. 83-30339

CAM-10.
Docket No. RM85-1-000, Regulation of natural gas pipelines after partial wellhead decontrol (Tejas Power Corporation and TXO Production Corporation)

Consent Gas Agenda

CAG-1.
Docket No. RP86-159-000, Blue Dolphin Pipe Line Company

CAG-2.
Docket Nos. RP86-158-000 and CP86-526-000, United Gas Pipe Line Company

CAG-3.
Docket Nos. RP86-155-000, Northwest Central Pipeline Corporation

CAG-4.
Docket Nos. RP86-104-001 and CP86-589-000, Colorado Interstate Gas Company

CAG-5.
Docket Nos. RP86-59-005 and RP85-13-013, Northwest Pipeline Corporation

CAG-6.
Omitted

CAG-7.
Docket Nos. TA87-1-42-000 and 001 (PGA87-1), Transwestern Pipeline Company

CAG-8.
Omitted

CAG-9.
Docket Nos. TA87-1-35-000 and 001 (PGA87-1), West Texas Gas, Inc.

CAG-10.
Docket Nos. TA87-1-34-000, 001, TA86-4-34-000, TA86-3-34-000 and TA86-1-34-000, Florida Gas Transmission Company

CAG-11.
Docket Nos. TA87-1-33-000, 001 and RP86-156-000, El Paso Natural Gas Company

CAG-12.
Docket Nos. TA87-1-32-000 and 001, Colorado Interstate Gas Company

CAG-13.
Docket Nos. TA87-1-31-000, 001 and RP86-160-000, Arkla Energy Resources, A division of Arkla, Inc.

CAG-14.
Docket Nos. TA87-1-7-000 and 001, Southern Natural Gas Company

CAG-15.
Docket Nos. TA86-8-51-000 and 001, Great Lakes Transmission Company

CAG-16.
Docket No. TA86-1-30-000 (PGA86-1), Trunkline Gas Company

CAG-17.
Docket Nos. RP86-112-001, 011, 012, 013, 014, 015 and 016, Columbia Gas Transmission Corporation

Docket Nos. RP86-108-001, 010, 011, 012, 013, 014 and 015, Columbia Gulf Transmission Company

CAG-18.
Docket No. RP86-92-005, Northwest Pipeline Corporation

CAG-19.
Docket No. RP86-133-001, National Fuel Gas Supply Corporation

CAG-20.
Docket Nos. RP83-34-007 and RP79-10-025, Great Lakes Gas Transmission Company

CAG-21.
Docket No. RP78-20-026, Columbia Gas Transmission Corporation

CAG-22.
Docket No. RP86-137-002, Florida Gas Transmission Company

CAG-23.
Docket Nos. RP86-35-006 and 007, Great Lakes Gas Transmission Company

CAG-24.
Docket Nos. TA86-1-40-002, Raton Gas Transmission Company

CAG-25.
Docket Nos. TA86-2-15-002, 003, 004, RP86-138-001, 002, and 003, Mid-Louisiana Gas Company

CAG-26.
Docket No. RP86-113-003, Gas Transmission Inc.

CAG-27.
Docket Nos. RP86-75-002 and 003, Northern Natural Gas Company, Division of Enron Corporation

CAG-28.
Docket No. TA86-5-29-006, Transcontinental Gas Pipe Line Corporation

CAG-29.
Docket No. RP86-92-001, Northwest Pipeline Corporation

CAG-30.
Docket Nos. TA86-1-12-000 and 001, Distrigas Corporation
Docket Nos. TA86-2-12-000 and 001, Distrigas of Massachusetts Corporation

CAG-31.
Docket Nos. TA86-6-5-000, TA85-5-5-000 and 002, Mid-Western Gas Transmission Company

CAG-32.
Docket Nos. TA86-4-37-000, 001 and 002, Northwest Pipeline Corporation

CAG-33.
Docket No. RP86-150-000, El Paso Natural Gas Company

CAG-34.
Omitted

CAG-35.
Docket No. RP86-44-000, Valero Interstate Transmission Company

CAG-36.
Docket Nos. ST86-1498-000 and ST85-354-001, SNG Intrastate Inc.

CAG-37.
Docket Nos. ST86-1338-000 and ST86-1014-000, Cranberry Pipeline Corporation

CAG-38.
Docket Nos. RI74-188-085 anmd RI75-21-080, Independent Oil & Gas Association of West Virginia

CAG-39.
Docket No. CI77-329-002, Texaco, Inc.

CAG-40.
Docket Nos. CP86-389-001 and 002, Transcontinental Gas Pipe Line Corporation

CAG-41.
Docket No. CP86-82-001, Texas Eastern Transmission Corportion

CAG-42.
Docket No. CP86-313-000, Panhandle Eastern Pipe Line Company

CAG-43.
Docket No. CP86-233-000, United Gas Pipe Line Company

CAG-44.
Docket No. CP86-298-000, Panhandle Eastern Pipe Line Company

CAG-45.
Docket Nos. CP86-324-000 and CP86-326-000, Northern Natural Gas Company, Division of Enron Corporation

CAG-46.
Docket No. CP86-608-000, Columbia Gas Transmission Corporation

CAG-47.
Docket No. CP81-188-007, Consolidated Gas Transmission Corporation

CAG-48.
Docket No. CP86-433-000, Southern Natural Gas Company

CAG-49.
Docket No. CP82-535-003, Texas Eastern Transmission Corporation

I. Licensed Project Matters

P-1.
Project No. 2890-011 and 013, Kings River Conservation District

II. Electric Rate Matters

ER-1.
Docket No. EF86-2061-000, U.S. Department of Energy—Bonneville Power Administration

ER-2.
Docket No. ER86-646-000, Middle South Services, Inc.

ER-3.
Docket Nos. ER84-348-007 and 008, American Electric Power Service Corporation

ER-4.
Docket No. EL86-30-000, Oxbow Geothermal Corporation

Miscellaneous Agenda

M-1.
Docket Nos. RM82-38-001 through 008, fees applicable to electric utilities, congenerators and small power producers

M-2.
Reserved

M-3.
Reserved

M-4.
Docket No. RM86-20-000, Rules of Practice and Procedure: Time period for appeals of staff actions

M-5.
Docket No. RM85-11-000, revision of FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis

I. Pipeline Rate Matters

RP-1.

Docket Nos. TA82-2-9-000 and TA83-1-9-000, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

RP-2.
Docket No. RP 86-117-000, Gas Research Institute

RP-3.
Omitted

RP-4.
Omitted

RP-5.
Omitted

II. Producer Matters

CI-1.
Omitted

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP86-422-000 and CP86-423-000, Great Lakes Gas Transmission Company
Docket No. CP86-419-000, ANR Pipeline Company
Docket Nos. CP86-329-000 and CP86-330-000, Erie Pipeline Company
Docket Nos. CP86-333-000 and CP86-334-000, Transylvania Gas Pipeline Company
Docket Nos. CP86-452-000 and CP86-455-000, Transco Gas Services, Inc.
Docket No. CP86-453-000, Transco Gas Services, Inc. and Transcontinental Gas Pipe Line Corporation

CP-2.
Docket No. CP86-465-000, Tennessee Gas Pipeline Company, Division of Tenneco Inc.

CP-3.
Docket No. CP86-251-000 and 001, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

CP-4.
Docket Nos. CP86-345-000 and 001, Northwest Pipeline Corporation

CP-5.
Docket No. CP86-517-000, Northern Natural Gas Company, a division of Enron Corporation

CP-6.
Docket Nos. CP86-206-000 and 001, Midwestern Gas Transmission Company

CP-7.
Docket Nos. CP86-875-000 and CP86-275-000, East Tennessee Natuarl Gas Company

CP-8
Docket Nos. CP86-95-001, CP86-96-001 and CP85-826-001, National Fuel Gas Supply Corporation
Docket No. CP86-294-001, Northern Natural Gas Company, Division of Enron Corporation
Docket No. CP86-169-001, Colorado Interstate Gas Company
Docket No. CP86-282-001, MIGC. Inc.
Docket Nos. CP86-414-002, CP86-556-000, CP86-557-001 and CP86-437-001, Natural Gas Pipeline Company of America

CP-9.
Docket No. CP84-637-002, Northern Natural Gas Company, Division of Enron Corporation
Docket No. CP-84-479-003, Northern Border Pipeline Company

Kenneth F. Plumb,
Secretary

[FR Doc. 86-21571 Filed 9-19-86; 10:36 am]
BILLING CODE 6717-01-M

3

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: Thursday, September 25, 1986.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(2) (internal personnel rules and practices) and 552b(c)(10) (Section 102.139) (a) of the Board's Rules and Regulations, Series 8, as amended—deliberation on adjudicatory matters.

MATTERS TO BE CONSIDERED: Matters involving Appellate Court Briefs.

CONTACT PERSON FOR MORE INFORMATION: Joseph E. Moore, Acting Executive Secretary, Washington, DC 20570, Telephone: (202) 254-9430.

Dated: Washington, DC, 19 September 1986.

By direction of the Board.

Joseph E. Moore,
Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 86-21638 Filed 9-19-86; 2:54 pm]
BILLING CODE 7545-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 22, 29 and October 6 and 13, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 22

Thursday, September 25

10:00 a.m.
Discussion of Pending Investigation (Closed—Ex 5&7)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Shoreham Intervenor's Motion to Reconsider CLI-86-11 (*postponed* from September 18)
b. Commission Order Regarding Several Miscellaneous Filings by Parties to Sequoyah Fuels Informal Proceedings (Tentative)

Week of September 29—Tentative

Thursday, October 2

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 6—Tentative

Thursday, October 9

9:30 a.m.
Briefing on Advanced Reactor Designs (Public Meeting) (Tentative)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 13—Tentative

Thursday, October 16

2:00 p.m.
Briefing on Status of Rancho Seco (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 17

10:00 a.m.
Briefing on Status of Fort St. Vrain (Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "Order Regarding Request for Emergency Stay of Defueling Operations at Diablo Canyon" (Public Meeting) was held on September 18.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,
Office of the Secretary.
September 18, 1986.

[FR Doc. 86-21642 Filed 9-19-86; 3:26 pm]
BILLING CODE 7590-01-M

5

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1375]

TIME AND DATE: 10:30 a.m. (edt), Thursday, September 25, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on September 11, 1986.

Discussion Item

1. Residential Conservation Program.

Action Items

A—Budget and Financing

A1. Adoption of supplemental resolution authorizing 1986 Series E power bonds.

A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1986 Series E power bonds.

A3. Short-term borrowing from the U.S. Treasury.

A4. Fiscal year 1987 operating budget financed from power revenues.

A5. Modification to fiscal year 1987 capital budget financed from power proceeds and borrowings—replace the endwinding support system and install end turns vibration monitoring system on the Unit 1 turbogenerator at Sequoyah Nuclear Plant.

B—Purchase Awards

*B1. Negotiation NQ–838100—Indefinite Quantity Term Agreement for genuine Limitorque replacement operators and parts for various TVA nuclear plants.

B2. Invitation DB–69128—Indefinite Quantity Term Contract for No. 2 diesel fuel oil for any TVA project or warehouse.

B3. Req. 54—Spot coal for Colbert, Johnsonville, and Shawnee Steam Plants.

C—Power Items

C1. Letter Agreement with the Department of the Air Force amending power contract for service to Arnold Engineering Development Center—TV–59316A.

C2. Cooperative Agreement No. TV–70373A with Ontario Hydro covering arrangements for cooperation in a project for operational testing of the 10–MW–Spray Dryer/Electrostatic Precipitator facility at Shawnee Steam Plant.

C3. Proposal to offer new type of power, called "Economy Surplus Power" to TVA's directly served customers, on an experimental basis.

D—Personnel Items

D1. Renewal of consulting contract with Robert B. Jansen, Mead, Washington, for consultation on the design and construction of major hydro projects, requested by the Division of Engineering Design.

D2. Recommendations on rates of pay and certain monetary fringe benefits for salary policy employees in represented positions resulting from the 34th (1986) annual salary negotiations; and for certain other employees.

D3. Recommendations concerning revised pay plan and salary schedule for the management and specialist schedule and for the physicians schedule.

E—Real Property Transactions

E1. Grant of permanent easement to Coffee County, Tennessee, for construction, operation, and maintenance of a highway and appurtenances, affecting approximately 1.6 acres of Normandy Reservoir land in Coffee County, Tennessee (Powers Bridge Project)—Tract No. XTNRMR–4H.

E2. Sale of permanent easement to Tennol Energy Company, Inc., for construction, operation, and maintenance of industrial facilities, including a barge terminal, affecting 1.8 acres of Guntersville Reservoir land in Marion County, Tennessee—Tract No. XGR–7291E.

E3. Resolution declaring approximately 150.4 acres of Beech Reservoir land located in Henderson County, Tennessee, as surplus and authorizing its sale at public auction by Beech River Watershed Development Authority, as agent for TVA, as part of the Eastern Shores Subdivision—Tract No. XBRBR–6.

F—Unclassified

F1. Resolution appointing Jack H. Putnam, Jr., and Charles L. Young as Assistant Secretaries of TVA.

F2. TVA contribution to retirement system for fiscal year 1987.

F3. Payments to States and counties in lieu of taxes for fiscal year ending September 30, 1986, as provided under section 13 of the TVA Act, as amended.

F4. Contract with Appalachian Regional Commission covering arrangements for cooperation in a demonstration of an innovative energy-efficient sewage treatment system using the ANFLOW modular system at Haleyville, Alabama.

F5. Contract with City of Haleyville, Alabama, providing for assistance in the development and implementation of a project to purchase, construct, and install an ANFLOW modular sewage treatment system at City's North Treatment Facility.

F6. Contract with Florida Institute of Phosphate Research covering arrangements for a research project on the chemistry of gypsum pond systems.

F7. Agreement with United States Department of the Army providing for loan of TVA employees to the Army in connection with technical studies at Army ammunitions plants and arsenals.

F8. Supplement No. 2 to Interagency Agreement (TV–66099A), between TVA and the Department of Energy (DOE) Western Area Power Administration covering arrangements for TVA to continue providing equipment inspection services.

*Item approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: September 18, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86–21581 Filed 9–19–86; 10:55 am]

BILLING CODE 8120–01–M

federal register

Tuesday
September 23, 1986

Part II

Federal Labor Relations Authority

5 CFR Part 2400 et al.

Federal Service Labor-Management Relations; Final and Proposed Rules

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2400, 2412, and 2430

Transition Rules and Regulations, Privacy, and Awards of Attorney Fees and Other Expenses

AGENCY: Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel.

ACTION: Final rules.

SUMMARY:

Transition Rules and Regulations: Part 2400 of the regulations of the Federal Labor Relations Authority governs the processing of cases which were pending on December 31, 1978, and those which were filed during the period from January 1 through January 10, 1979. There are no such cases currently pending before the Authority. Accordingly, Part 2400 is removed in its entirety.

Privacy: Section 2412.3 provides that an annual notice will be published in the **Federal Register** describing the systems of records maintained within the agency. Annual publication is no longer required by law; rather, publication is now required only upon establishment or revision of a system. As a result, § 2412.3 is revised to provide that notices of systems of records will be published in accordance with applicable requirements.

In addition, Part 2412 provides that various actions shall be requested of and taken by the "Deputy Director of Administration." That position title is no longer part of the agency's organization. Part 2412 is amended, therefore, by removing the words "Deputy Director of Administration" and inserting in their place the words "Director of Administration."

Awards of Attorney Fees and Other Expenses: Changes are made in three sections of Part 2430, which governs the awards of attorney fees and other expenses to parties to adversary adjudications. These awards are made pursuant to the Equal Access to Justice Act (EAJA), 5 U.S.C. 504, which was extended and amended by Congress on August 5, 1985, Pub. L. 99–80, 99 Stat. 183 (1985). First § 2430.1 contains the word "agency" in three places. The word, however, is intended to refer to the "Authority" in one place and the "General Counsel" in the other two. For clarification, therefore, § 2430.1 is revised by deleting the word "agency" and inserting in its place the words "Authority" and "General Counsel," where appropriate.

Second, § 2430.2(a) provides that Part 2430 applies to unfair labor practice (ULP) proceedings which were pending on complaint against a labor organization between October 1, 1981, and September 30, 1984. Pursuant to the 1985 extension and amendment of the EAJA, inclusion of the September 30, 1984, date is no longer appropriate. Accordingly, § 2430.2(a) is revised by deleting references to the September 30, 1984 data.

Finally, § 2430.2(b) provides that an applicant eligible to receive an award is an entity which has a net worth of not more than $5 million. The 1985 extension and amendment of the EAJA changed the net worth requirement involving adjudications pending on or commenced on or after August 5, 1985, from not more than $5 million to not more than $7 million. Pursuant to the changed requirement, § 2430.2(b) is revised accordingly.

EFFECTIVE DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424; (202) 382–0715.

SUPPLEMENTARY INFORMATION:

Transition Rules and Regulations: Part 2400 of the regulations of the Federal Labor Relations Authority governs the processing of cases (1) pending on December 31, 1978, before the Federal Labor Relations Council, the Assistant Secretary of Labor for Labor-Management Relations, the Vice Chairman of the Civil Service Commission when performing the duties of the Assistant Secretary, and the Federal Service Impasses Panel (Panel); and (2) filed with the Federal Labor Relations Authority and the Panel during the period January 1 through January 10, 1979. There are no cases subject to Part 2400 currently pending. Accordingly, Part 2400 is removed in its entirety.

Privacy: Part 2412 contains the regulations implementing the Privacy Act of 1974, as amended, 5 U.S.C. 552a. Section 2412.3 provides that the Authority, the General Counsel of the Authority (General Counsel), and the Panel will publish an annual notice in the **Federal Register** describing the systems of records maintained by the agency. The Congressional Reports Elimination Act of 1982, Pub. L. 97–375, 96 Stat. 1819 (1982), changed the annual notice requirement to a publication requirement "upon establishment or revision" of a system. In accordance with existing requirements, § 2412.3 is revised to provide that the Authority, the General Counsel, and the Panel will publish notices of systems of records in accordance with applicable requirements.

Part 2412 provides that various actions shall be requested of and taken by the "Deputy Director of Administration." Since that position title is no longer part of the Authority's organization, Part 2412 is revised by removing the words "Deputy Director of Administration" in all sections in which they appear and inserting in their place the words "Director of Administration."

Awards of Attorney Fees and Other Expenses: Part 2430 governs the awards of attorney fees and other expenses to eligible individuals and entities who are parties to agency adversary adjudications. These awards are made pursuant to the Equal Access to Justice Act (EAJA), 5 U.S.C. 504, which was extended and amended by Congress on August 5, 1985, Pub. L. 99–80, 99 Stat. 183 (1985). Changes are made in three sections of Part 2430:

1. Section 2430.1 contains the word "agency" in three places. It refers to parties to "agency adversary adjudications." It also refers to a party's receipt of an award when it prevails over an "agency, unless the agency's position in the proceeding" was substantially justified, or special circumstances make the award unjust. As applied to cases, it is clear that the word "agency" is intended to refer to the "Authority" in the first instance, and to the "General Counsel" in the last two. Accordingly, § 2430.1 is revised by deleting the word "agency" and inserting in its place the word "Authority" in the first sentence, and inserting the words "General Counsel" in the second sentence. As defined in section 7103(a)(6) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7103, Pub. L. 94–454, 92 Stat. 1192 (1978), "Authority" means the "Federal Labor Relations Authority[.]"

2. Section 2430.2(a) provides that Part 2430 applies to unfair labor practice (ULP) proceedings which were (1) pending on complaint against a labor organization between October 1, 1981, and September 30, 1984; (2) begun before October 1, 1981, if final Authority action had not been taken by that date; and (3) pending on September 30, 1984, regardless of when they were initiated or when final Authority action occurs. As extended and amended by Congress in 1985, the EAJA no longer has an expiration date. Accordingly, § 2430.2(a) is revised to provide that Part 2430 applies to ULP proceedings pending on complaint against a labor organization at any time since October 1, 1981.

3. Section 2430.2(b) describes an applicant eligible to receive awards as a partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees. The 1985 extension and amendment of the EAJA changed the net worth requirement for entities applying for awards resulting from adjudications pending on and after August 5, 1985, from $5 million to $7 million. Consistent with this change, § 2430.2(b) is revised to apply the $7 million requirement to applications resulting from adversary adjudications pending on or commenced on or after August 5, 1985. The eligibility requirement concerning the number of employees is unchanged.

List of Subjects in 5 CFR Parts 2400, 2412, and 2430

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR is amended as follows:

PART 2400—[REMOVED]

1.5 CFR Part 2400 is removed.

PART 2412—PRIVACY

1. The authority citation for Part 2412 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. 5 CFR Part 2412 is amended by revising § 2412.3 to read as follows:

§ 2412.3 Notice and publication.

The Authority, the General Counsel, and the Panel will publish in the **Federal Register** such notices describing systems of records as are required by law.

§§ 2412.4 through 2412.9 and 2412.11 through 2412.13 [Amended]

3. 5 CFR Part 2412 is amended by removing the words "Deputy Director of Administration" and inserting, in their place, the words "Director of Administration" in the following places:

(a) 5 CFR 2412.4 (a)(2), (b), and (d);
(b) 5 CFR 2412.5(b);
(c) 5 CFR 2412.6 (a) and (c);
(d) 5 CFR 2412.7(a);
(e) 5 CFR 2412.8 (a)(2) and (c);
(f) 5 CFR 2412.9(a);
(g) 5 CFR 2412.11(a);
(h) 5 CFR 2412.12;
(i) 5 CFR 2412.13 (b)(2) and (b)(3).

PART 2430—AWARDS OF ATTORNEY FEES AND OTHER EXPENSES

1. The authority citation for Part 2430 is revised to read as follows:

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)), as extended and amended, Pub. L. 99-80, 99 Stat. 183 (1985).

2. 5 CFR Part 2430 is amended by revising § 2430.1 to read as follows:

§ 2430.1 Purpose.

The Equal Assess to Justice Act, 5 U.S.C. 504, provides for the award of attorney, agent, or witness fees and other expenses to eligible individuals and entities who are parties to Authority adversary adjudications. An eligible party may receive an award when it prevails over the General Counsel, unless the General Counsel's position in the proceeding was substantially justified, or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards, and the Authority proceeding that is covered. They also set forth the procedures for applying for such awards, and the procedures by which the Authority will rule on such applications.

3. 5 CFR Part 2430 is amended by revising § 2430.2(a) and (b)(1) to read as follows:

§ 2430.2 Proceedings affected; eligibility for award.

(a) The provisions of this part apply to unfair labor practice proceedings pending on complaint against a labor organization at any time since October 1, 1981.

(b)(1) Applicants eligible to receive an award in proceedings conducted by the Authority are any partnership, corporation, association, or public or private organization with a net worth of not more than $5 million ($7 million in cases involving adversary adjudications pending on or commenced on or after August 5, 1985) and not more than 500 employees.

* * * * *

Dated: September 17, 1986.

Jerry L. Calhoun,
Chairman.
Henry B. Frazier III,
Member.
Jean McKee,
Member.
John C. Miller,
General Counsel.
Roy M. Brewer,
Chairman, FSIP.

[FR Doc. 86-21481 Filed 9-22-86; 8:45 am]
BILLING CODE 6727-01-M

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2422, 2423, and 2429

Processing of Cases; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Proposed rules; request for comments.

SUMMARY: Changes are proposed in sections of Parts 2422, 2423, and 2429. These changes concern (1) computation of time for filing papers (§ 2429.21), and (2) the place and methods of filing (§ 2429.24).

Computation of time for filing papers: Section 2429.21 of the regulations of the Federal Labor Relations Authority provides that a document which is filed with the Authority, the General Counsel of the Authority, a Regional Director, or an Administrative Law Judge must be received by the Authority or an officer or agent designated to receive the document before the close of business on the last day of the time limit applicable to the filing to be considered timely filed. Since the date of receipt of a document is often out of the control of the filing party, the Authority and the General Counsel propose to amend § 2429.21 to provide that, for all documents except unfair labor practice charges under § 2423.6 of this subchapter, a representation petition under § 2422.2 of this subchapter and a request for an extension of time pursuant to § 2429.23(a) of this part, if a document is submitted by mail, the date of filing shall be the date of mailing as indicated by the postmark date. If no postmark date is evident, the document shall be presumed to have been mailed 5 days prior to receipt. As proposed, § 2429.21 will also provide that documents shall be filed with the Authority in accordance with § 2429.24, which as modified in a manner discussed in the next section, would provide a specific filing address. Sections 2422.2 and 2423.6 have been proposed to specify that date of receipt remains the filing date for filing of unfair labor practice charges and representation petitions.

Place and methods of filing: Section 2429.24(a) provides that documents filed with the Authority pursuant to Subchapter C shall be filed at the address set forth in Appendix A. To supply more information concerning the filing of documents, the Authority proposes to revise § 2429.24(a) to provide a specific address, including a room number, and specific hours during which documents may be filed. Section 2429.24(e) provides that all documents filed with the Authority must be filed by certified mail or in person. Consistent with the proposed revision concerning the computation of time for filing papers in § 2429.21 (discussed above), the Authority and the General Counsel propose to revise § 2429.24(e) to provide that documents may be filed by mail, including regular and express mail, or in person.

DATE: Comments must be received on or by October 23, 1986.

ADDRESS: Comments should be addressed to Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT:
Harold D. Kessler, (202) 382-0715.
David L. Feder, Office of the General Counsel, Federal Labor Relations Authority, (202) 382-0834.

SUPPLEMENTARY INFORMATION:

Computation of time for filing papers: Section 2429.21 of the regulations of the Federal Labor Relations Authority sets forth general requirements applicable to the computation of time for filing papers with the Authority, the General Counsel of the Authority, an Administrative Law Judge, and Regional Directors of the Authority. It provides that when the filing of any paper is required, the document must be received by the Authority or the agent or officer designated to receive such matter before the close of business on the last day of the time limit for such filing or extension of time that may have been granted. For unfair labor practice charges, representation petitions and extensions of time, the date of receipt will continue to be considered the filing date. Since the date on which a mailed document is received is not within the control of the filing party, the Authority and the General Counsel propose to revise § 2429.21 to provide that if other documents are submitted by mail, the date of filing shall be the date of mailing as indicated by the postmark date. If no postmark date is evident on the document, a 5-day mailing period will be presumed. In addition, for documents filed with the Authority, it is proposed to revise § 2429.21 to provide that filings shall be in accordance with § 2429.24. Proposed revisions in § 2429.24 are discussed below.

Place and methods filing: Two changes are proposed in § 2429.24, which governs the place and methods of filing documents with the Authority, the General Counsel, Regional Directors, and Administrative Law Judges. First, to clarify the place and hours during which filings with the Authority may be made, it is proposed to revise § 2429.24(a) to specify that documents must be filed with the Director of Case Management, in Room 213 of the Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424, between the hours of 8 a.m. and 5 p.m. The addresses for filings with the General Counsel, Regional Directors, and Administrative Law Judges are not changed. Second, consistent with the proposed change in § 2429.21 concerning the computation of time for filing papers (discussed above), the Authority and the General Counsel propose to revise § 2429.24(e). That section currently provides that documents must be filed by certified mail or in person. As revised, filings could be made by mail (including regular, certified, and express mail) or in person.

List of Subjects in 5 CFR Parts 2422, 2423, and 2429

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR is proposed to be amended as follows:

PART 2422—REPRESENTATION PROCEEDINGS

1. The authority citation for Part 2422 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. It is proposed to amend 5 CFR Part 2422 by adding § 2422.2(e)(4) to read as follows:

§ 2422.2 Contents of petition; procedures for consolidation of existing exclusively recognized units; filing and service of petition; challenges to petition.

* * * * *

(e) * * *

(4) A petition will be deemed to be filed when it is received by the appropriate Regional Director in accordance with the requirements in paragraph (e) (1), (2), and (3) of this section.

* * * * *

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for Part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. It is proposed to amend 5 CFR Part 2423 by adding § 2423.6(c) to read as follows:

§ 2423.6 Filing and service of copies.

* * * * *

(c) A change will be deemed to be filed when it is received by the appropriate Regional Director in accordance with the requirements in paragraph (a) of this section.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

1. The authority citation for Part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. It is proposed to amend 5 CFR Part 2429 by revising § 2429.21 to read as follows:

§ 2429.21 Computation of time for filing papers.

(a) In computing any period of time prescribed by or allowed by this subchapter, except in agreement bar situations described in § 2422.3 (c) and (d) of this subchapter, and except as to the filing of exceptions to an arbitrator's award under § 2425.1 of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. *Provided, however,* in agreement bar situations described in § 2422.3 (c) and (d), if the 60th day prior to the expiration date of an agreement falls on Saturday, Sunday, or a Federal legal holiday, a petition, to be timely, must be filed by the close of business on the last official workday preceding the 60th day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations.

(b) Except when filing an unfair labor practice charge pursuant to § 2423.6 of this subchapter, a representation petition pursuant to § 2422.2 of this subchapter, and a request for an extension of time pursuant to § 2429.23(a) of this part, when this subchapter requires the filing of any paper with the Authority, the General Counsel, a Regional Director, or an Administrative Law Judge, the date of filing shall be determined by the date of mailing indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the Authority or the officer or agent designated to receive such matter.

(c) All documents filed or required to be filed with the Authority shall be filed in accordance with § 2429.24(a) of this subchapter.

3. It is proposed to amend 5 CFR Part 2429 by revising § 2429.23(a) to read as follows:

§ 2429.23 Extensions; waiver.

(a) Except as provided in paragraph (d) of this section, and notwithstanding § 2429.21(b) of this subchapter, the Authority or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be in writing and received by the appropriate official not later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

* * * * *

4. It is proposed to amend 5 CFR Part 2429 by revising § 2429.24 (a) and (e) to read as follows:

§ 2429.24 Place and method of filing; acknowledgment.

(a) All documents filed or required to filed with the Authority pursuant to this subchapter shall be filed with the Director of Case Management, Federal Labor Relations Authority, Room 213 (Docket Room), 500 C Street SW., Washington, DC 20424 (telephone FTS 382–0748; Commercial (202) 382–0748) between 8 a.m. and 5 p.m., Monday through Friday (except Federal holidays). Documents hand-delivered for filing must be presented in Room 213 not later than 5 p.m. to be accepted for filing on that day.

* * * * *

(e) All documents filed pursuant to this section shall be filed in person or by mail.

* * * * *

Dated: September 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

John C. Miller,

General Counsel.

[FR Doc. 86–21463 Filed 9–22–86; 8:45 am]

BILLING CODE 6727–01–M

5 CFR Part 2423

Unfair Labor Practice Proceedings

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Proposed rules; request for comments.

SUMMARY: Changes are proposed in one section of Part 2423. This change concerns a requirement to exchange proposed witness lists and documentary evidence prior to the opening of an unfair labor practice hearing (§ 2423.14).

Amendment to § 2423.14 of the regulations is proposed to require parties in an unfair labor practice case to exchange proposed witness lists, excluding adverse witnesses, and copies of documentary evidence, with an index, not less than ten (10) days prior to the opening of a hearing. The requirement would not preclude a party from calling a witness or introducing an exhibit, if the existence of the witness or exhibit was not known or the exhibit was not available more than ten (10) days prior to the hearing.

DATE: Comments must be received by October 23, 1986.

ADDRESS: Comments should be addressed to David L. Feder, Assistant General Counsel, Office of the General Counsel, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: David L. Feder, (202) 382–0834.

SUPPLEMENTARY INFORMATION: The proposed amendment to § 2423.14 of the regulations includes a requirement that all parties to an unfair labor practice hearing will exchange proposed witness lists, excluding adverse witnesses, and copies of documents, with an index, intended to be offered into evidence at the hearing not less than ten (10) days prior to the opening of the hearing. This requirement will be applicable to all parties. This requirement would not preclude a party from calling a witness or introducing an exhibit, if the existence of the witness or exhibit was not known or the exhibit was not available more than ten (10) days prior to the hearing. It is anticipated that the exchange of proposed witness lists and documentary evidence will afford the parties an opportunity to review all such documentation prior to the commencement of the hearing and thus facilitate the introduction of evidence at the hearing.

List of Subjects in 5 CFR Part 2423

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR Part 2423 is proposed to be amended as follows:

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for Part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. It is proposed to amend 5 CFR Part 2423 by revising the section heading, redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

§ 2423.14 Prehearing disclosure; Conduct of hearing.

(a) Parties will exchange proposed witness lists, excluding adverse witnesses, and copies of documents, with index, intended to be offered into evidence at the hearing not less than ten (10) days prior to the opening of the hearing. This requirement does not preclude a party from calling a witness or introducing an exhibit, if the existence of the witness or exhibit was not known or the exhibit was not available more than ten (10) days prior to the hearing.

* * * * *

Dated: September 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

John C. Miller,

General Counsel.

[FR Doc. 86-21449 Filed 9-22-86; 8:45 am]

BILLING CODE 6727-01-M

---

5 CFR Parts 2423, 2429, and App. B to Ch. XIV

Processing of Cases; Unfair Labor Practice;

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority).

ACTION: Proposed amendment of rules and regulations and amendment to Appendix B to Chapter XIV; request for comments.

SUMMARY: The Federal Labor Relations Authority initially requested written comments concerning its review of certain suggested modifications to its case processing procedures, which request was published in the **Federal Register** on June 20, 1984 (49 FR 25243). An extension of time to allow all interested parties to make their submissions was published in the **Federal Register** on September 6, 1984 (49 FR 350096). Due to various internal operating concerns, including changes in the membership of the Authority, action on the submissions and comments received—although given serious consideration—was not effected until June 1986. On June 10, 1986, the Authority published a notice of open meetings in the **Federal Register** (51 FR 21051), indicating that four major regulatory revisions were being considered and inviting all interested parties to provide oral and/or written comments. Such open meetings were held on June 24, 1986 and June 26, 1986. The parties were given an opportunity to submit written comments following the close of the hearings; these comments were to be received by the Authority by August 1, 1986 (51 FR 23888). All the comments received to date—both in written and oral form—have been considered by the Authority. The Authority is proposing to amend its rules and regulations to delegate decision-making authority in unfair labor practice cases to its Administrative Law Judges, subject to discretionary review by the Authority on the basis of criteria set forth in its rules and regulations or on its own motion. Such action is specifically authorized under 5 U.S.C. 7105 (e) and (f). To conform to this change, an amendment is being made in Appendix B to 5 CFR Ch. XIV—Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority. A new Appendix C to 5 CFR Ch. XIV is being added to set forth the newly delegated decision-making authority of the Administrative Law Judges.

DATES: Comments should be received by October 23, 1986.

ADDRESS: Written comments should be addressed to Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, (202) 382-0715.

SUPPLEMENTARY INFORMATION: The Authority solicited and received a number of comments concerning the possible delegation of decision-making authority in unfair labor practice cases to its Administrative Law Judges. Currently, Judges prepare recommended decisions and orders in such cases and transmit them to the Authority, which may affirm or reverse such decisions, in whole or in part, or make such other disposition as it deems appropriate. On August 11, 1981, the Authority published a final amendment of its rules and regulations which provides that in unfair labor practice cases where no exceptions to an Administrative Law Judge's decision are filed within the time limit provided and as otherwise prescribed, the findings, conclusions and recommendations of the Judge become, without precedential significance, the findings, conclusions, decision and order of the Authority and all objections and exceptions thereto are then deemed to have been waived (46 FR 40672).

The Authority is now proposing to further amend the rules and regulations by exercising its authority under 5 U.S.C. 7105 (e) and (f) to delegate decisionmaking authority in unfair labor practice cases to its Administrative Law Judges. As prescribed in these amendments, a decision of an Administrative Law Judge will be subject to review following the filing of a timely application for review within 60 days after issuance of the Judge's decision, based on one or more of the criteria specified in the rules and regulations for accepting such applications. The Authority also will retain the discretion to undertake review of any decision of an Administrative Law Judge on its own motion during that 60 day period. The 60-day time limit provided for in section 7105(f) may not be extended or waived.

The decision of the Administrative Law Judge will become final 60 days after its date of issuance where an application for review is not timely filed and the Authority does not on its own motion undertake review; where an application for review is timely filed and the Authority does not undertake to grant review or where an application for review is timely filed but is denied by the Authority. Under such circumstances, the decision of the Judge becomes without precedential significance the action of the Authority. Where, however, the Authority grants a timely application for review or undertakes review on its own motion, the decision will be precedential as to those matters that are before the Authority on review. An application for review may be granted or review otherwise undertaken upon the vote of one Authority Member. This practice will now also apply to the granting of applications for review of Regional Directors' actions in representation proceedings under § 2422.17 of the rules and regulations.

The filing of an application for review or review undertaken by the Authority on its own motion will not as provided in section 7105(f) operate as a stay of the Judge's decision except where remedial action is required to be taken. In such circumstances, it is our intention to preserve the existing practice in which a party that has been ordered to take some action by a Judge is not required to effectuate the action while the matter is pending before the Authority and does not risk committing an unfair labor practice for failing to take the action. Therefore, under these proposed amendments, where an application is pending before the Authority or is before the Authority on review, any remedial action required by the Judge will be temporarily stayed until action is taken by the Authority. A party will not commit an unfair labor practice for failing to take whatever action is required while the matter is pending before the Authority.

It is anticipated that this change will benefit the labor-management relations program in the Federal service by expediting the process by which unfair labor practice cases are resolved. That is, decisions of Administrative Law Judges will become final in 60 days unless an application for review is filed and granted by the Authority or the Authority, on its own motion, undertakes review. Additionally, since the inception of the Federal service labor-management relations program under the Statute in January 1979, a substantial body of case law has been developed which will enable the Administrative Law Judges to resolve most of the issues before them expeditiously. Of course, the Authority will retain the flexibility to resolve new issues and reconsider established ones when deemed appropriate in carrying out its responsibilities for providing leadership in establishing policies and guidance under the Statute.

To give the delegation of decisionmaking authority to Administrative Law Judges the greatest practical effect, the Authority is proposing to implement a related change in case processing procedures. This change would require Administrative Law Judges to prepare and issue decisions in *all* unfair labor practice cases, including those involving stipulated records. Regional Directors will retain the authority to enter into stipluations of fact but will transmit such records to Administrative Law Judges for decision rather than directly to the Authority. To allow the existing practice to continue under which stipulated records are transmitted directly to the Authority for decision would circumvent the intended effect of the delegation as described above.

List of Subjects in 5 CFR Parts 2423 and 2429 and App. B to Ch. XIV

Administrative practice and procedure, Government employees, Labor-management relations.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for 5 CFR Part 2423 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2423.9 is amended by revising paragraphs (a)(5) and (d) as follows:

§ 2423.9 Action by the Regional Director.

(a) * * *

(5) After issuance of a complaint, and based upon a stipulation by the parties, determine that no material issue of fact exists, and, upon agreement of all parties, transmit the case to the Chief Administrative Law Judge who shall designate an Administrative Law Judge for the purpose of issuance of a decision or other appropriate action (including remand of the case to the Regional Director), in accordance with the provisions of § 2423.19 of this subchapter. Orders of transmittal shall be served on all parties; or

* * * * *

(d) Whenever temporary relief has been obtained pursuant to 5 U.S.C. 7123(d) and therafter the Administrative Law Judge either hearing the complaint, upon which the determination to seek such temporary relief was predicated, or to whom the complaint and stipulated record were transmitted, recommends dismissal of such complaint, in whole or in part, the Regional Attorney or other designated agent of the Authority handling the case for the Authority shall inform the district court which granted the temporary relief of the possible change in circumstances arising out of the decision of the Administrative Law Judge.

3. In § 2423.11 the italic headings preceding paragraphs (d)(1), (d)(3), (e)(1) and (e)(2), and paragraphs (d), (e)(1) and (e)(2) are revised to read as follows:

§ 2423.11 Settlement or adjustment of issues.

* * * * *

Post Complaint—Formal Settlements

(d)(1) If, after issuance of a complaint but before opening of the hearing, or before transmittal of the stipulated record to the Administrative Law Judge, the charging party and the respondent enter into a formal settlement agreement, and such agreement is accepted by the Regional Director, the formal settlement agreement shall be submitted to the Authority for approval.

(2) If, after issuance of a complaint but before opening of the hearing, or before transmittal of the stipulated record to the Administrative Law Judge, the charging party fails or refuses to become a party to a formal settlement agreement offered by the respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the agreement shall be between the respondent and the Regional Director. The charging party will be so informed and provided a brief written statement by the Regional Director of the reasons therefor. The formal settlement agreement together with the charging party's objections, if any, and the Regional Director's written statements, shall be submitted to the Authority for approval. The Authority may approve or disapprove any formal settlement agreement or return the case to the Regional Director for other appropriate action.

Post Complaint—Informal Settlements

(3) After the issuance of a complaint but before opening of the hearing, or transmittal of the stipulated record to the Administrative Law Judge, if the Regional Director concludes that it will effectuate the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may withdraw the complaint and approve an informal settlement agreement pursuant to paragraph (b) of this section.

Informal Settlements After the Opening of the Hearing or Transmittal of the Stipulated Record to the Administrative Law Judge

(e)(1) After issuance of a complaint and after opening of the hearing, or transmittal of the stipulated record to the Administrative Law Judge, if the Regional Director concludes that it will effectuate the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may request the Administrative Law Judge for permission to withdraw the complaint and, having been granted such permission to withdraw the complaint, may approve an informal settlement agreement pursuant to paragraph (b) of this section.

Formal Settlement After the Opening of the Hearing or Transmittal of the Stipulated Record to the Administrative Law Judge

(2) If, after issuance of a complaint and after opening of the hearing, or transmittal of the stipulated record to the Administrative Law Judge, the parties enter into a formal settlement agreement, the Regional Director may request the Administrative Law Judge to approve such formal settlement agreement, and upon such approval, to transmit the agreement to the Authority for approval.

* * * * *

4. Section 2423.12 is amended by revising paragraph (d) as follows:

§ 2423.12 Issuance and contents of the complaint.

* * * * *

(d) A complaint may be amended, upon such terms as may be deemed just, prior to the hearing or transmittal of the case to the Administrative Law Judge, by the Regional Director issuing the complaint; at the hearing, upon motion, by the Administrative Law Judge designated to conduct the hearing; upon transmittal of the stipulated record to the Administrative Law Judge, upon motion, by the Administrative Law Judge to whom the stipulated record was transmitted; and at any time prior to the issuance of an order based thereon by the Administrative Law Judge.

* * * * *

5. Section 2423.13 is amended by revising paragraph (d) to read as follows:

§ 2423.13 Answer to the Complaint; extension of time for filing; amendment

* * * * *

(d) The answer may be amended by the respondent at any time prior to the hearing or transmittal of the stipulated record to the Administrative Law Judge. During the hearing or subsequent thereto, or after transmittal of the stipulated record to the Administrative Law Judge, the answer may be amended in any case where the complaint has been amended, within such periods as may be fixed by the Administrative Law Judge. Whether or not the complaint has been amended, the answer may, in the discretion of the Administrative Law Judge, upon motion, be amended upon such terms and within such periods as may be fixed by the Administrative Law Judge.

6. In § 2423.19 the introductory text and paragraph (p) are revised. Section 2423.19(t) is redesignated as § 2423.19(u) and a new § 24.23.19(t) is added, as follows:

§ 2423.19 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before such judge. Subject to the rules and regulations of the Authority and the General Counsel, an Administrative Law Judge presiding at a hearing or to whom a stipulated record has been transmitted may:

* * * * *

(p) Approve requests for withdrawal of complaints based on informal settlements occurring after the opening of the hearing or transmittal of the stipulated record pursuant to § 2423.11(e)(1), and transmit formal settlement agreements to the Authority for approval pursuant to § 2423.11(e) (2) and (3);

* * * * *

(t) When a stipulated record has been transmitted, remand any such case to the Regional Director for further processing. Orders of remand shall be served on all parties.

(u) Take any other action deemed necessary under the foregoing and not prohibited by the regulations in this subchapter.

7. Section 2423.20 is revised as follows:

§ 2423.20 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing or to whom the stipulated record has been transmitted becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a decision on the record as made, or both, or for any other appropriate action.

8. Section 2423.21(b) is revised to read as follows:

§ 2423.21 Objection to conduct of hearing.

* * * * *

(b) Formal exceptions to adverse rulings are unnecessary. Automatic exceptions will be assumed to all adverse rulings. Except by special permission of the Authority, and in view of § 2429.11 of this subchapter, rulings by the Administrative Law Judge shall not be appealed prior to the filing of an application for review of the Administrative Law Judge's decision in accordance with § 2423.27. In the discretion of the Administrative Law Judge, and where a hearing is held, the hearing may be continued or adjourned pending any such request for special permission to appeal.

9. Section 2423.22 is amended by revising paragraphs (a)(1), (b)(1), (b)(2) and (b)(3) and removing paragraph (b)(4), to read as follows:

§ 2423.22 Motions.

(a) *Filing of Motions.* (1) Motions made prior to a hearing or transmittal of the stipulated record to the Administrative Law Judge and any response thereto shall be made in writing and filed with the Regional Director: *Provided, however,* That after the issuance of a complaint by the Regional Director any motion to change the date of the hearing shall be filed with the Chief Administrative Law Judge immediately upon discovery of the circumstance which in the judgment of the moving party warrants a change in the date of the hearing. The moving party shall attempt to contact the other parties and shall inform the Chief Administrative Law Judge of the positions of the other parties on the motion. Only in extraordinary circumstances will such a motion be granted where filed less than ten (10) days prior to the scheduled hearing. Motions made after the hearing opens or after transmittal of the stipulated record to the Administrative Law Judge shall be made in writing to the Administrative Law Judge or orally on the record. A motion to correct the transcript shall be filed with the Administrative Law Judge.

* * * * *

(b) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them before the hearing, or transmittal of the stipulated record to the Administrative Law Judge, or they may refer them to the Chief Administative Law Judge.

(2) Except by special permission of the Chief Administrative Law Judge, and in view of § 2429.11 of this subchapter, rulings of the Regional Director shall not be appealed prior to the transmittal of the case to the Administrative Law Judge, but shall be considered by the Administrative Law Judge when the case is transmitted to the Administrative Law Judge for decision.

(3) Administrative Law Judges may rule on motions referred to them prior to the hearing, on motions filed after the beginning of the hearing, and on motions filed after transmittal of the stipulated record. Such motions may be ruled upon by the Chief Administrative Law Judge in the absence of an Administrative Law Judge.

10. Section 2423.25 is revised as follows:

§ 2423.25 Filing of briefs.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original and four (4) copies within a reasonable time fixed by the Administrative Law Judge, but not in excess of thirty (30) days from the close of the hearing or from the date that the stipulated record is transmitted to the Administrative Law Judge. Copies of any brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the Administrative Law Judge. Requests for extensions of time pursuant to § 2429.23(a) to file briefs shall be made to the Chief Administrative Law Judge, in writing, and copies thereof shall be served on the other parties. A statement of such service shall be furnished. Requests for extensions of time must be received not later than five (5) days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

11. Section 2423.26 is revised to read as follows:

§ 2423.26 Decision of the Administrative Law Judge.

(a) After the close of the hearing, or the transmittal by the Regional Director of the stipulated record, and the receipt of briefs, if any, the Administrative Law Judge shall prepare the decision expeditiously. The Administrative Law Judge shall prepare a decision even when the parties enter into a stipulation of fact at the hearing. The decision shall contain findings of fact, conclusions of law, and the reasons or basis therefor, including any necessary credibility determinations, and conclusions as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Administrative Law Judge shall cause the decision to be served promptly on all parties to the proceeding.

(c) Upon finding that an unfair labor practice has occurred, the Administrative Law Judge shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Administrative Law Judge and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C 5596; or

(4) Including any combination of the actions described in this paragraph (c), or such other action as will carry out the purpose of the Federal Service Labor-Management Relations Statute.

(d) Upon finding no violation, the Administrative Law Judge shall dismiss the complaint.

(e) The Decision and Order of the Administrative Law Judge shall be final: *Provided, however,* that an application for review of the Administrative Law Judge's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2423.27.

(f) The filing of an application for review shall not, unless specifically ordered by the Authority, operate as a stay of the Decision and Order of the Administrative Law Judge: *Provided, however,* That where remedial action is required to be taken by the Judge, the filing of an application will temporarily stay such requirement until action on the application for review is taken by the Authority.

(g) A Decision and Order of the Administrative Law Judge becomes without precedential significance the action of the Authority when:

(1) No application for review is filed within sixty (60) days after the date of the Administrative Law Judge's Decision and Order and the Authority does not on its own motion under § 2423.29 undertake review thereof within sixty (60) days of the date of such action; or

(2) A timely application for review is filed with the Authority and the Authority does not undertake to grant review of the Administrative Law Judge's Decision and Order within sixty (60) days after the date of the filing of the application; or

(3) The Authority denies an application for review of the Administrative Law Judge's Decision and Order.

12. Section 2423.27 is revised to read as follows:

§ 2423.27 Application for review of a Decision and Order of the Administrative Law Judge.

(a) An Administrative Law Judge's Decision and Order shall be final: Provided, however, That a party may file an application for review of the Administrative Law Judge's Decision and Order with the Authority, or the Authority on its own motion under § 2423.29(a) may undertake review thereof, within sixty (60) days of the date of such action. Copies of the application for review shall be served on the Administrative Law Judge and all other parties and a statement of service shall be filed with the application for review. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f) for the filing of an application for review may not be extended or waived.

(b) The Authority may grant an application for review only where it appears that compelling reasons exist therefor. Accordingly, an application for review may be granted only upon one or more of the following grounds:

(1) that a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from, Authority precedent;

(2) That the decision of the Administrative Law Judge is based on an erroneous interpretation of statute or regulation;

(3) That there are extraordinary circumstances warranting reconsideration of an Authority policy;

(4) That the conduct of the hearing held or any ruling made in connection with the proceedings has resulted in prejudicial error;

(5) That the Administrative Law Judge's decision on a substantial factual issue is clearly erroneous and such error prejudicially affects the rights of a party; or

(6) That new and material evidence is available which, despite due diligence, was not available when the Administrative Law Judge made the decision.

(c) Any party may file an opposition to an application for review with the Authority within ten (10) days after service of the application for review. Copies of the opposition to the application for review shall be served on the Administrative Law Judge and the other parties, and a statement of service shall be filed with the opposition to the application for review. The Authority may deny the application for review without awaiting a statement in opposition thereto.

(d) The parties may, at any time, waive the right to file an application for review. Except in extraordinary circumstances, or if the Authority undertakes review on its own motions as provided for under § 2423.9, a failure to file an application for review shall preclude such parties from raising any issue which was, or could have been, raised in the application for review. If an application for review fails to raise any issue which could have been raised in the application, such issue will be deemed waived for all purposes.

13. Section 2423.28 is revised to read as follows:

§ 2423.28 Contents of application for review of the Administrative Law Judge's Decision and Order; briefs in support of or opposition to application for review.

(a) Any application for review must be a self-contained document enabling the Authority to rule on the basis of its contents without the necessity of recourse to the record; however, the Authority may at its discretion, examine the record in evaluating the application. An application must:

(1) Set forth specifically the grounds upon which review is requested;

(2) Identify that part of the Administrative Law Judge's decision of which review is requested; and

(3) Contain a summary of all evidence or rulings relating to the issue(s) raised together with page citations from the transcript, if applicable, and supporting argument.

An application may not raise any issue or allege any facts not timely presented to the Administrative Law Judge.

(b) Except where the Authority rules upon the issue(s) in the order granting review, the parties may, within ten (10) days after issuance of an order granting review, file briefs with the Authority. Such briefs may be reproductions of those previously filed with the Administrative Law Judge and/or other briefs and shall be limited to the issue(s) raised in the application for review or, where so directed, in the order granting the aplication for review.

14. Section 2423.29 is revised to read as follows:

§ 2423.29 Action by the Authority.

(a) The Authority, on its own motion, may undertake review of an Administrative Law Judge's Decision within sixty (60) days of the date of such action.

(1) Upon notification to the parties that the Authority has undertaken review of an Administrative Law Judge's Decision, the Authority may grant the parties ten (10) days after service of such notification within which to submit briefs.

(2) Copies of any briefs submitted shall be served on all other parties to the proceeding and a statement of service shall be filed with the Authority.

(b) When an application for review has been granted, the Authority will consider the entire record in the light of the grounds relied upon for review. The Authority may rule upon the issue(s) in its order granting the application for review. Any application for review may be withdrawn with the permission of the Authority at any time prior to the issuance of the decision of the Authority thereon.

(c) The granting of an application for review shall not stay the Administrative Law Judge's Decision and Order unless otherwise ordered by the Authority: *Provided, however,* That where remedial action is required to be taken by the Judge, the granting of an application will temporarily stay such requirement until action is taken by the Authority.

(d) After granting review of a timely application, or having undertaken review of the Administrative Law Judge's Decision and Order on its own motion in accordance with this section, the Authority shall issue its decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as it deems appropriate. Such decision shall be precedential as to the matters addressed therein by the Authority.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

1. The authority citation for 5 CFR Part 2429 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2429.1 is revised to read as follows:

§ 2429.1 One member vote policy.

The decision to grant an application for review under Parts 2422 and 2423 or to otherwise undertake review of an Administrative Law Judge's Decision and Order under Part 2423 may be made by one member of the Authority.

3. Section 2429.11 is revised to read as follows:

§ 2429.11 Interlocutory appeals.

The Authority, Administrative Law Judges, and the General Counsel ordinarily will not consider interlocutory appeals.

Appendix B to 5 CFR Chapter XIV

1. An authority citation for Appendix B to 5 CFR Chapter XIV is added to read:

Authority: 5 U.S.C. 7104(f).

2. Appendix B to 5 CFR Chapter XIV is amended by revising section I.A. as follows:

I. *Case handling*—A. *Unfair labor practice cases.* The General Counsel has full and final authority and responsibility, on behalf of the Authority, to accept and investigate charges filed, to enter into and approve the informal settlement of charges, to approve withdrawal requests, to dismiss charges, to determine matters concerning the consolidation and severance of cases before complaint issues, to issue complaints and notices of hearing, to appear before Administrative Law Judges in hearings on complaints and prosecute as provided in the Authority's and the General Counsel's rules and regulations, and to initiate and prosecute injunction proceedings as provided for in section 7123(d) of the Statute. After issuance of the Administrative Law Judge's decision, the General Counsel may file an application for review of such decision and briefs and appear before the Authority in oral argument, subject to the Authority's and the General Counsel's rules and regulations.

3. Appendix C to 5 CFR Chapter XIV is added as follows:

Appendix C to 5 CFR Chapter XIV—Memorandum Describing the Authority and Assigned Responsibilities of Administrative Law Judges of the Federal Labor Relations Authority

Administrative Law Judges of the Federal Labor Relations Authority are appointed in accordance with section 7105(d) of the Federal Service Labor-Management Relations Statute and 5 U.S.C. 3105. Their authority and assigned responsibilities are delegated by the Authority pursuant to the Authority's powers as set forth in section 7105 of the Statute.

This memorandum is intended to describe the delegation of decision-making authority in unfair labor practice cases to the Administrative Law Judges effective _____. Other delegated authority and responsibilities are previously set forth and described in these rules and regulations.

Administrative Law Judges shall issue decisions in all unfair labor practice cases. A decision and order of an Administrative Law Judge is final. However, a party may file an application for review of such decision and order with the Authority within 60 days after the date of such action or the Authority may on its own motion undertake review thereof also within that same time period. The filing or granting of an application for review will not stay the Administrative Law Judge's decision and order, unless the Judge has ordered that remedial action be taken. In such circumstances, the action will be temporarily stayed while the matter is before the Authority on review.

A decision and order of an Administrative Law Judge becomes the action of the Authority under the following circumstances: (1) No application for review is filed within sixty (60) days after the date of the Judge's decision and the Authority does not on its own motion undertake review thereof within 60 days; (2) A timely application for review is filed with the Authority and the Authority does not undertake to grant review of the Judge's decision and order within sixty (60) days after the date of the filing of the application; or (3) The Authority denies an application for review of the Judge's decision and order.

Where the Authority grants review of a timely filed application or undertakes review on its own motion, the Authority will issue a decision affirming or reversing the Administrative Law Judge, in whole, or in part, or make such other disposition as it deems appropriate.

Dated: September 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

[FR Doc. 86-21477 Filed 9-22-86; 8:45 am]

BILLING CODE 6727-01-M

5 CFR Part 2424

Expedited Review of Negotiability Issues

AGENCY: Federal Labor Relations Authority.

ACTION: Proposed amendment of rules and regulations, request for comments.

SUMMARY: The Authority proposes to make changes to Part 2424. The changes concern (1) the content of a petition for review of negotiability issues (§ 2424.4(a)(2)) and the filing of an incomplete petition for review (§ 2424.4(c)); (2) the content of the agency statement of position (§ 2424.6(a)(3)); and (3) procedures which the Authority may follow if the record created by the parties is not of sufficient quality to enable it to expeditiously reach a reasoned decision.

Content of a Petition for Review: Section 2424.4(a)(2) of the Regulations of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority provides that a petition for review of a negotiability issue must contain an explicit statement of the meaning attributed to the proposal by the exclusive representative. The Authority proposes to amend § 2424.4(a)(2) to provide that the statement of meaning must include an explanation of any language used in the proposal which is not in common usage; and a description of particular circumstances the proposal concerns, which will enable the Authority to understand the context in which the proposal is intended to apply.

Incomplete Petition for Review: Section 2424.4(a) provides that a petition for review shall contain certain information. Section 2424.4(b) provides that copy of the complete petition shall be served on the agency head and the principal agency bargaining representative at the negotiations. The Authority proposes to amend this section to provide that: (1) An exclusive representative will be asked to furnish information which is missing or incomplete or risk dismissal of the petition; and (2) The processing priority for an incomplete petition relative to other pending appeals will be based upon the date when the petition is completed.

Content of Agency Statement of Position: Section 2424.6(a)(2) provides that the agency shall file a statement setting forth in full its position on relevant matters it wishes the Authority to consider in reaching its decision. The Authority proposed to amend this section to provide that the statement should include an explanation of the meaning attributed by the agency to the proposal as a whole, including any language used in the proposal which is not in common usage; and a description of particular circumstances the agency views the proposal to concern, which will enable the Authority to understand the context in which the proposal is thought to apply.

Procedures When the Record is Insufficient: The Authority proposes to add a new § 2424.10 setting forth two procedures which it may follow when in its judgment the record in a case is not of sufficient quality to enable it to expeditiously reach a reasoned decision. The procedures involve meeting with the parties to discuss the voluntary settlement of negotiability issues; and holding a hearing to augment the record. The Authority proposes to redesignate the present § 2424.10 as § 2424.10a.

DATE: Comments must be received by October 23, 1986.

ADDRESS: Written comments should be addressed to Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, (202) 382-0715.

SUPPLEMENTARY INFORMATION:

Content of a Petition for Review: Section 2424.4(a) of the Regulations of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority sets forth the required content of a petition for review of a negotiability issue. It provides in § 2424.4(a)(2) that a petition shall contain an explicit statement by the exclusive representative of the meaning it attributes to its disputed proposal. Many negotiability issues involve proposals: (1) Containing unexplained acronyms, techical terms or other language familiar to the parties but which are not in common with usage; and (2) Concerning a particular work situation or other particular circumstances not described in the proposal. The meaning of such terms or language and the particular circumstances in which the proposal is intended to apply often are not readily discernable from the case record as a whole. When this occurs, it prevents the expeditious resolution of the dispute by the Authority and can result in the need to engage in time-consuming research, speculation or other action to obtain the missing information from the parties. Accordingly, the Authority proposed to specify in the Regulations the requirement for an exclusive representative to include such information concerning the meaning of its proposal in the petition for review.

Incomplete Petition for Review: Section 2424.4 sets forth the required content and service of a petition for review. When a petition for review is filed which is defective because required information either is not furnished or is not complete, it is the Authority's practice to give the exclusive representative an opportunity to cure the defect and avoid dismissal of the petition by furnishing or completing the missing or incomplete information. Furthermore, it is the Authority's practice not to further process a dispute sought to be raised by an incomplete petition for review until the petition is completed. Thus, priority processing will be given to complete petitions over previously filed but still incomplete petitions. Accordingly, the Authority proposes to amend § 2424.4 by adding § 2424.4(c) to expressly reflect these practices. Consideration was given to the need to modify the negotiability appeal regulations to provide for the resolution of procedural issues prior to submissions being filed on the negotiability issues present. It was concluded that no such modification was necessary, noting that the Authority addresses procedural issues itself upon receipt of a negotiability appeal, advising parties of procedural deficiencies, and extending the period of time for the filing of statements of position on negotiability issues pending a determination on existing procedural issues.

Content of Agency Statement of Position: Section 2424.6(a)(2) sets forth the required content of an agency's statement of its position on relevant matters it wishes the Authority to consider in reaching its decision. Many negotiability issues involve proposals: (1) Containing unexplained acronyms, technical terms or other language which are familiar to the parties but are not in common usage; and (2) Concerning a particular work situation or other particular circumstances not described in the proposal, as discussed above in connection with the *Content of a Petition for Review.* Accordingly, for the same reasons stated in that discussion, the Authority proposes to specify that an agency should include such

information concerning its interpretation of the meaning of the proposal in its statement of position.

Procedures When the Record is Insufficient: Sometimes the record established by the exclusive representative's petition for review, the agency's statement of position, and the exclusive representative's response is not, in the judgment of the Authority, adequate to enable it to expeditiously reach a reasoned decision. Accordingly, the Authority proposes to add a new section to its Regulations setting forth two procedures it may follow in selected cases in order to further the policy of resolving all negotiability issues as expeditiously as practicable. One procedure involves meeting with the parties, if they consent, to discuss the voluntary settlement of any issues involved in the appeal. The other involves holding a hearing pursuant to section 2424.9 of the Regulations and 5 U.S.C. 7117(b)(3) or 5 U.S.C. 7117(c)(5), of which a suitable record will be made for the purpose of augmenting the record in the case as to any matter which would facilitate the dismissal or resolution of the appeal. It is intended that these procedures will be used very selectively. They may be followed either on the Authority's own motion or if the Authority grants a request of one or both parties. The meetings or hearings normally will be conducted by the staff of the Authority.

List of Subjects in 5 CFR Part 2424

Administrative practice and procedures, Government employees, Labor-management relations.

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

1. The authority citation for 5 CFR Part 2424 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2424.4 is amended by revising paragraph (a)(2) and by adding paragraph (c) as follows:

§ 2424.4 Content of petition; service.

(a) * * *

(2) An explicit statement of the meaning attributed to the proposal by the exclusive representative including:

(i) Explanation of terms of art, acronyms, technical language, or any other aspect of the language of the proposal which is not in common usage; and

(ii) Where the proposal is concerned with a particular work situation, or other particular circumstances, a description of the situation or circumstances which will enable the Authority to understand the context in which the proposal is intended to apply;

* * * * *

(c)(1) Filing an incomplete petition for review will result in the exclusive representative's being asked to provide the missing or incomplete information. Noncompliance with a request to complete the record may result in dismissal of the petition.

(2) The processing priority accorded to an incomplete petition, relative to other pending negotiability appeals, will be based upon the date when the petition is completed—not the date it was originally filed.

3. Section 2424.6 is amended by revising paragraph (a)(2) as follows:

§ 2424.6 Position of the agency; time limits for filing; service.

(a) * * *

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Authority to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal agency rule or regulation so relied upon. The statement shall include:

(i) Explanation of the meaning the agency attributes to the proposal as a whole, including any terms of art, acronyms, technical language or any other aspect of the language of the proposal which is not in common usage; and

(ii) Description of a particular work situation, or other particular circumstance the agency views the proposal to concern, which will enable the Authority to understand the context in which the proposal is considered to apply by the agency.

* * * * *

4. Present § 2424.10 is redesignated as § 2424.10a and a new § 2424.10 is added to read as follows:

§ 2424.10 Record not sufficient; optional procedures.

If, in the judgment of the Authority or its designee, the record created by the parties in any appeal instituted pursuant to this subpart is not of sufficient quality to enable it to expeditiously reach a reasoned decision, the Authority may follow one or both of the following procedures in order to further the policy of resolving all negotiability issues as expeditiously as practicable:

(a) Meet with the parties, if they consent, to discuss the voluntary settlement of any or all issues involved in the appeal;

(b) Hold a hearing, pursuant to § 2424.9 of the Rules and Regulations, for the purpose of augmenting the record as to any matter which would facilitate dismissal or resolution of the appeal, including requiring oral argument by the parties concerning the substantive issues raised in the appeal.

Dated: September 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

[FR Doc. 86-21465 Filed 9-22-86; 8:45 am]

BILLING CODE 6727-01-M

---

5 CFR Parts 2425 and 2429

Processing of Cases: Exceptions to Arbitration Award

AGENCY: Federal Labor Relations Authority.

ACTION: Proposed rule; renewal of proposed revocation of rule; request for comments; new comment period.

SUMMARY:

Request for Stay of Arbitration Award: Section 7122(b) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7122(b), provides that if an exception to an arbitration award is not filed with the Authority during the time period prescribed for such filing then the award becomes final and binding. The Authority interprets 5 U.S.C. 7122(b) to mean that if timely exceptions to an award are filed with the Authority then the award is not final and binding until the exceptions are resolved by the Authority. Based upon that interpretation, the Authority has determined that if a party files timely exceptions to an award it is not necessary to also file a request for a stay of the award. Consequently, the Authority has concluded that § 2429.8 of the rules and regulations governing such requests is unnecessary. The Authority previously proposed to revoke the provision (49 FR 44902). However, the Authority also determined at that time that it would defer final action on the proposed revocation until after the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in a case which involved the Authority's interpretation of 5 U.S.C. 7122(b). The court has issued its decision in the case, finding, among other things, that the Authority's interpretation is permissible but could be implemented by the Authority only through the rulemaking

process and not in an adjudicatory context. The Authority therefore has decided to republish the proposal to revoke § 2429.8 of the rules and regulations and to provide a new period for comment on the proposed action.

Content of Exceptions: Section 2425.2 lists the contents of an exception to an arbitrator's award which is filed with the Authority. The Authority is now serving copies of its decisions on such exceptions on the arbitrator as well as the parties. The Authority proposes to amend § 2425.2 to require that the name and address of the arbitrator be included in the exception.

Date: Comments must be received by October 23, 1986.

ADDRESS: Written comments should be addressed to Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, (202) 382–0715.

SUPPLEMENTARY INFORMATION:

Request for Stay of Arbitration Award: As first promulgated in 1980 (45 FR 3486), the current stay regulation, 5 CFR 2429.8, continued in effect an interim regulation that had been promulgated by the Authority in 1979 shortly after the Statute was enacted (44 FR 44740). That initial stay regulation of the Authority was similar to a regulation of the Federal Labor Relations Council that was in effect under Executive Order 11491 in 1978. Under the Executive Order, arbitration awards were subject to a two-step Council review process, in which exceptions to an award were considered on their merits only after the Council had granted a party's petiton for review of the award. 5 CFR 2411.31 *et seq.* (1978). Section 7122(b) of the Statute, however, differed from its Executive Order counterpart. Thus, the Authority carried over a stay request provision of the Council to Authority operations before it had an opportunity to assess whether any change in the Council's regulation was warranted. In the context of numerous exceptions filed under the Statute, and in the light of the differences between the grievance arbitration provisions of E.O. 11491, as amended, and the Statute, the Authority has concluded that an award to which timely exceptions have been filed is not final and binding for compliance purposes until the Authority resolves the exceptions.

In 1981, the Authority proposed to revise § 2429.8 (46 FR 57056). The Authority determined at that time that 5 U.S.C. 7122(b) implicitly provided that when timely exceptions were filed with the Authority, the arbitrator'a award was automatically stayed. The Authority therefore proposed to revise § 2429.8 of its rules and regulations to provide that the filing of an exception would operate as a stay of the award. In 1982, however, based upon comments received concerning the proposed revision and further consideration of the matter, the Authority decided not to revise the provision at that time and therefore withdrew the proposal (47 FR 38133).

In 1984, the Authority determined in an unfair labor practice case, *U.S. Soldiers' and Airmen's Home, Washington, D.C. and American Federation of Government Employees, Local 3090, AFL–CIO*, 15 F.L.R.A. No. 26 (1984), *request for reconsideration denied* (September 20, 1984), *vacated and remanded, American Federation of Government Employees, Local 3090* v. *FLRA* (D.C. Cir., 1985), that where exceptions to an arbitration award were timely filed, the award was not final and binding within the meaning of 5 U.S.C. 7122 and a party did not have to comply with the award until the exceptions were resolved by the Authority. Based upon its decision in that case, the Authority concluded that it was not necessary for a party filing exceptions also to file a request for a stay of the award and, therefore, that § 2429.8 of the rules and regulations was unnecessary. Consequently, the Authority proposed in 1984 to revoke the provision (49 FR 44902). Three comments on the proposal were received, from two agencies supporting the proposal and from one union opposing it. The Authority also determined that it would not take any final action with respect to the proposed revocation until the U.S. Court of Appeals for the District of Columbia Circuit decided the appeal in the *Soldiers' and Airmen's Home* case, which was then pending before the court.

In its review of the Authority's *Soldiers' and Airmen's Home* decision, the D.C. Circuit concluded that the language and legislative history of the Statute are ambiguous as to whether an arbitration award that has been timely excepted to under section 7122 is final and binding for compliance purposes, while exceptions are pending. The court found, however, that the Authority's stay regulation demonstrated an "implicit premise" that the Authority viewed the Statute as requiring the unsuccessful party in an arbitration proceeding to secure a stay of the award to avoid being bound by it while exceptions were pending. The court stated that while this implied interpretation of the Statute based on the stay regulation may not be required under the Statute, it is not prohibited either.

Accordingly, the court concluded that the Authority's interpretation of the Statute as set forth in its *Soldiers' and Airmen's Home* decision could not be sustained in light of what the court construed as a contrary interpretation of the Statute in the Authority's stay regulation. The court ruled further that the Authority could not effectively repeal its stay regulation in an adjudicatory proceeding like *Soldiers' and Airmen's Home*. However, the court concluded that the Authority may seek to alter its stay regulation in a rulemaking proceeding, because section 7122(b) of the Statute is "sufficiently ambiguous" to permit both the Authority's "traditional construction" of the Statute in the stay regulation, and the "newly advanced" interpretation of the Statute in *Soldiers' Home*.

As indicated above, it is the view of the Authority that an arbitration award which has been excepted to is not final and binding within the meaning of section 7122(b) of the Statute. In this regard, section 7122(b) specifically states that an agency must take the actions required by an arbitrator's final award, and that the award becomes final and binding if no exception to the award is filed during the prescribed time period. Thus, the plain language of the provision defines a final and binding award as one to which timely exceptions have not been filed. It seems equally clear that an award which has been excepted to is not final and binding for compliance purposes. The intent of Congress on this point is also evident in the Conference Committee Report which accompanied the bill ultimately enacted as the Statute. The conferees adopted the House provision that if no exception is filed with the Authority an award shall be final and binding, and noted that the intent of the House was to make it clear that "awards of arbitrators, when they become final, are not subject to further review by any other authority or administrative body. . . ." H.R. Rep. No. 95–1717, 95th Cong., 2 Sess. 158 (1978), *reprinted in* Legislative History of the Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978 at 826 (1979). This passage indicates that Congress intended an arbitration award to become final and binding at the point when no further review of the award is available either because the time period for filing exceptions to the award with the Authority has expired, or the exceptions have been ruled on.

The Authority has applied this construction of the Statute in various

contexts not at issue in this proposed rulemaking proceeding. The Authority has held that an agency is obligated to comply with an award if timely exceptions have not been filed with the Authority, and that the agency commits an unfair labor practice if it fails to comply. *U.S. Air Force, Air Force Logistics Command Wright-Patterson Air Force Base, Ohio,* 15 F.L.R.A. 151 (1984), *affirmed, Department of the Air Force* v. *FLRA,* 775 F.2d 727 (6th Cir. 1985). Additionally, when timely filed exceptions have been denied by the Authority, the award becomes final and binding for compliance purposes, and an agency commits an unfair labor practice if it fails to comply with the award. *U.S. Marshals Service,* 13 F.L.R.A. 351 (1983), *enf'd, U.S. Marshals Service* v. *FLRA,* 778 F.2d 1432 (9th Cir. 1985); *Dep't of Justice, Bureau of Prisons,* 20 F.L.R.A. No. 5 (Sept. 10, 1985), *enf'd,* Nos. 85–4167, 85–4179 (2d Cir. May 30, 1986). As stated above, it is equally clear from the application of these principles that an award which has been excepted to is not final and binding for compliance purposes while the exceptions are pending.

The conclusions that Congress intended abritration awards to be final and binding for compliance purposes only after the opportunity for Authority review of the award has expired is also supported by the purposes served by such a construction. By providing that an award is not final and binding until timely exceptions have been decided, the possibility that a losing party will be required to comply with an unlawful award is greatly reduced. Although the possibility may also be reduced by means of a stay procedure, a stay procedure is not, in the Authority's view, the means adopted by Congress to accomplish this purpose.

Based on the foregoing, the Authority has decided to republish the proposed revocation of § 2429.8 of the rules and regulations, invite comments on the proposed action, and to provide a new period for such comments. Since this notice is considered to supercede the 1984 notice (49 FR 44902), previously submitted comments will not be considered unless the filing party so requests. Interested parties who previously submitted comments may, of course, submit new comments if they wish to do so.

Content of Exception: Section 2425.2 lists the contents of an exception to an arbitrator's award which is filed with the Authority. The Authority is now serving copies of its decisions on such exceptions on the arbitrator as well as the parties. The Authority proposes to amend § 2425.2 to require that the name and address of the arbitrator be included in the exception. Most, but not all, parties already provide this information. This amendment would allow the Authority to assure that all arbitrators receive copies of Authority decisions on exceptions to their awards.

List of Subjects in 5 CFR Parts 2425 and 2429

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR is proposed to be amended as follows:

PART 2425—REVIEW OF ARBITRATION AWARDS

1. The authortiy citation for 5 CFR Parts 2425 and 2429 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2425.2(e) is added to read as follows:

§ 2425.2 Contents of exceptions.

* * * * *

(e) The name and address of the arbitrator.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

§ 2429.8 [Removed and Reserved]

Section 2429.8 is removed and reserved.

Dated: September 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

[FR Doc. 86–21464 Filed 9–22–86; 8:45 am]

BILLING CODE 6727-01-M

federal register

Tuesday
September 23, 1986

Part III

Department of Education

Auxiliary Activities—Research and Training For the Handicapped Children's Early Education Program; Invitation To Submit Applications for New Awards and Proposed Annual Funding Priorities; Notices

DEPARTMENT OF EDUCATION

New Awards Under the Auxiliary Activities—Research and Training for the Handicapped Children's Early Education Program for Fiscal Year 1987 (CFDA No. 84.086P—In-Service Training); Invitation To Submit Applications

Purpose: To provide support for research, development or demonstration, training, and dissemination activities that meet the unique educational needs of handicapped children and youth, including those who are severely handicapped.

Deadline for Transmittal of Applications: January 16, 1987.

Applications Available: November 21, 1986.

Available Funds: $600,000.

Estimated Range of Awards: $75,000–$125,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 6.

Project Period: Up to 36 months.

Applicable Regulations: (a) Auxiliary Activities Regulations, 34 CFR Part 315, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (c) when adopted in final form, the Annual Funding Priorities for this Program. A notice of proposed annual funding priorities is published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priority for In-Service Training. If there are any changes made when the final annual priorities are published, applicants will be given the opportunity to amend or resubmit their applications. The Secretary intends to give an absolute preference to applications that meet this priority.

For Applications or Information Contact: Dr. Thomas E. Finch, Early Childhood Branch, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Bldg., Room 3511–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1084.

Program Authority: 20 U.S.C. 1424.

Dated: September 17, 1986

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86–21483 Filed 9–22–86; 8:45 am]

BILLING CODE 4000–01–M

Auxiliary Activities—Research and Training for the Handicapped Children's Early Education Program; Proposed Annual Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposed to establish annual funding priorities for the Auxiliary Activities—Research and Training for the Handicapped Children's Early Education Program to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1987. The Secretary will reserve funds for applications meeting these priorities.

DATE: Comments must be received on or before October 23, 1986.

ADDRESS: Comments should be addressed to the contact person listed in each individual proposed priority.

FOR FURTHER INFORMATION CONTACT: The person listed in each individual proposed priority.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities Program supports research, development or demonstration activities, training, and dissemination activities, which are consistent with the purposes of Part C of the Education of the Handicapped Act, and meet the unique educational needs of handicapped children and youth including those who are severely handicapped.

It has become clear that in order to satisfy the goal of section 623, Early Education for Handicapped Children, to provide effective and replicable services for handicapped infants and preschool aged children, research to identify the most effective methods and materials for promoting children's progress in areas such as social development and language development needs to be a priority.

It has also become clear that in order to enhance the provision of services for handicapped infants and those at risk of becoming handicapped, current training programs need to address inservice training of personnel to work in programs serving the birth through age two population. The need for an inservice priority evolved because of the following principles: (1) Training personnel to work with handicapped infants through age two is different from training personnel for preschool programs; (2) The nature of the birth through age two child as a learner is unique and distinct from that of other learners; (3) A coordinated multi-agency approach to service delivery is imperative; and (4) A family systems approach must be the focus of programming for this age group (birth–2).

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications submitted under the Auxiliary Activities—Research and Training for the Handicapped Children's Early Education Program in fiscal year 1987 that respond to one of the priorities described below. An absolute preference is one which meet the described priority.

Priority 1—Research on Early Childhood Program Features

To provide effective and replicable services for handicapped infants and preschool aged children, there is a major need for research to indentify the most effective methods and materials for promoting children's progress in different developmental domains (e.g., social, language, motor). Presently, much of the available information on the effectiveness of services is limited to entire programs; little information is available on the comparative effectiveness of different program components for promoting, for example, language development of handicapped children, yet many professionals who are planning to establish a service program prefer to review and assemble components from several programs rather than to adopt an entire program. Similarly, many professionals who are now operating a service program desire to replace certain components of their program with more effective ones.

There are currently available several well-defined program components for promoting language development of young handicapped children and several well-defined program components for promoting social development of handicapped children. These components vary significantly in such matters as conceptual/theoretical bases, instructional procedures, and instructional materials. Although much is known about these components, information is generally not available on their relative effectiveness as indexed by a variety of measures of child progress.

This proposed priority would support projects that use a variety of measures of child progress to compare the effectiveness of several (minimum of 3) program components for promoting (1) language development, or (2) social development of handicapped children

within the age range of birth through five years. These components must be well-defined sets of instructional goals and procedures which can be incorporated within planned or existing preschool programs of varying types. The components selected for study must be compared in multiple studies and in different types of existing preschool programs. Applicants must fully describe the components that will be studied, the justification for their selection, and the existing preschool programs in which they will be studied. In conducting the studies, projects must monitor the amount and quality of implementation of the components, as well as the children's experiences in other components of the program. Included within the proposed research activities should be a plan for conducting studies to determine whether the initial findings can be replicated, and a plan for documenting the costs and other resources necessary to incorporate the components in different kinds of preschool programs. The goal of these research projects would be to provide information about the relative effects of the components studied, and to provide to professionals replicable components that can be incorporated in new or existing infant or preschool programs.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone (202) 732–1099.

Priority 2—In-Service Training

This proposed priority would support projects that demonstrate innovative and experimental in-service training programs that focus on meeting the need for qualified personnel to provide services to handicapped and children who are at risk of becoming handicapped from birth through age two. Personnel to be trained under this priority would include, but not be limited to: pediatricians, neonatal caregivers (nurses, social workers, physical therapists, occupational therapists, speech pathologists, public health personnel, and parents). Within this priority projects must focus on one or more of the following: (a) Establishing an inservice training program which focuses on training personnel to work as a team with handicapped children from birth through age 2; (b) Ensuring the development of a curriculum which includes a multi-agency approach to service delivery for handicapped children from birth through age two; or (c) Ensuring the development of a curriculum which includes a focus on the role of the family and skills the family needs to participate in the delivery of service as part of a team working with handicapped children from birth through age two.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch, Early Childhood Branch, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone (202) 732–1084.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities. Written comments and recommendations may be sent to the address listed under each individual proposed priority. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues the final priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Rooms 3522 (Priority 1) and 4611 (Priority 2), Switzer Building, 330 C Street SW, Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance No 84.086; Auxiliary Activities: Research and Training for the Handicapped Children's Early Education Program)

Dated: August 19, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–21482 Filed 9–22–86; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Tuesday
September 23, 1986

Part IV

Department of Transportation

Federal Highway Administration

48 CFR Part 387

Motor Carrier Safety Regulations; Environmental Restoration; Financial Responsibility Minimum Levels; Interim Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-126; Amdt. No. 83-19]

Minimum Levels of Financial Responsbility for Motor Carriers: Environmental Restoration

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: In response to a joint petition filed by the American Insurance Association (AIA) and the American Trucking Associations (ATA) and because of the current insurance crisis facing the motor carrier industry, the FHWA is adopting an interim final rule to redefine "evironmental restoration" as that term is used in the FHWA's financial responsibility regulations This action will make clear that motor carriers are required to provide evidence of financial responsibility to satisfy claims for damage to human health and to the environment including necessary restoration costs, but not for potential or speculative damages for which they would not otherwise be found liable.

EFFECTIVE DATE: September 23, 1986. Written comments must be received on or before November 24, 1986.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590. All comments will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 366-2983; or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: .

Background Joint Petition of The American Insurance Association And The American Trucking Associations

On July 22, 1986, the FHWA received a joint petition from the AIA and the ATA. The AIA and the ATA (petitioners) have requested that the words "or potential for damage" be deleted from the definition of "environmental restoration" provided in the FHWA's financial responsibility regulations at 49 CFR 387.5 (1985). The petitioners believe that this change will ameliorate the problems motor carriers have had in obtaining the coverage required by section 30 of the Motor Carrier Act of 1980, 49 U.S.C 10927 note (1982 & Supp. II 1984).

The petitioners have asserted that motor carriers are faces with an insurance crisis. They maintain that:

> In the midst of serious problems in the commercial insurance market, motor carriers are simultaneously being confronted with significant increases in their insurance premiums; a reduction in insurance coverage availability as insurance underwriters and reinsurers withdraw from the voluntary motor carrier casualty insurance market; and, a general inability to obtain insurance coverage in amounts exceeding the statutory minimums, notwithstanding that damages (measured in dollars) in the event of an incident have the potential to exceed the statutory minimums.

petition of American Insurance Association and American Trucking Associations to Amend 49 CFR Part 387, Minimum Levels of Financial Responsibility For Motor Carriers of Property (Petition) (July 18, 1986) at 6.

The petitioners further believe that, "A significant contributor to the insurance problems being experienced by the trucking industry is DOT's definition of 'environmental restoration'." *Id.* at 8. They state that since 1981 when the FHWA issued its financial responsibility regulation (*see* 46 FR 30974 (1981)), "courts have increasingly become more liberal in constructing insurance contracts in favor of plaintiffs." *Id.* at 9. According to the petitioners, neither the insurance industry nor the FHWA could have anticipated the developments which have occurred in the past five years affecting tort liability and insurance contracts. In view of recent developments, however, they now believe that the term "environmental restoration" may be interpreted in such a way as to expand the scope of recompensable liability.

The AIA and the ATA argue that Congress, in enacting section 30 of the Motor Carrier Act of 1980, did not intend to create a new source of liability or to expand the scope of liabilities established under other Federal, State, or common law. Rather, Congress intended that the question of liability be determined under other applicable law, and that section 30 imposed on motor carriers the obligation to secure financial responsibility coverage to satisfy claims involving public liability, property damage, and environmental restoration, as those claims are determined under other applicable law.

The petitioners believe that the term "environmental restoration," as defined by the FHWA, may be interpreted to find motor carriers liable for, and insurers liable to pay on, claims involving purely speculative damages for which motor carriers would not otherwise be held liable. They assert that, because of their concern that they may be required to pay for claims never contemplated or contractually agreed to, insurers view the request to insure motor carriers for environmental restoration claims as a request to provide boundless coverage. Consequently, motor carriers are finding that they cannot find an insurance company willing to provide the required coverage in the voluntary market or cannot afford the premium charged for it.

The petitioners believe that the phrase "or potential for damage" is not necessary for the protection of the public; that, in effect, to the extent that it creates liability, it is not authorized by section 30 of the Motor Carrier Act of 1980; and that its deletion from the definition of "environmental restoration" is warranted to allay the concerns of insurers. The AIA and the ATA believe that if the FHWA would amend its definition accordingly, insurers will be more willing to provide the required coverage in the amounts prescribed by the law.

Availability of Environmental Restoration Insurance

The FHWA is aware of the current insurance cost and availability problems facing motor carriers. These problems appear to be particularly acute for those carriers required to obtain coverage at the $5 million level (i.e., transporters of certain hazardous materials in bulk). As might be expected, environmental restoration coverage is especially important for these same carriers. Thus, serious availability and affordability problems pose nearly insurmountable obstacles for the continuation of these types of operations, even though they are essential for the general public welfare.

The United States General Accounting Office provided a briefing report to the Chairman, Subcommittee on Surface Transportation, Committee on Public Works and Transportation of the House of Representatives, entitled, "Motor Carriers: The Availability of Environmental Restoration Insurance."

This report indicated that motor carriers are facing increasing difficulty in obtaining insurance at the required levels, especially the $5 million level. New entrants in particular are expected to encounter extreme difficulty in obtaining insurance in these amounts. The report also indicated that the insurance that would be available would be more expensive. The GAO noted in its transmittal letter to Chairman Glenn M. Anderson that:

> Insurers told us that they object to writing environmental restoration coverage, particularly at the $5 million level, because there are too may unknown risks involved and they are unable to obtain reinsurance—insurance that insurers purchase to cover looses they may incur under their policies. Insurers are concerned that not enough is known about the nature and extent of damage that hazardous materials can inflict on the environment and human health and that the damage can manifest itself many years after an accident. Therefore, they are uncertain about when their liability will come to an end and what the total liability associated with an accident will be.
>
> Insurers consider the language describing the risk they are being asked to insure to be open-ended and not well-defined. For example, they fear having to pay substantial sums for speculative damages based on a risk of future harm without showing actual bodily injury. They also are concerned that key words and phrases in their policies will be interpreted by courts to expand coverage beyond that intended by insurers as has happened, in their view, under other types of insurance policies.

Letter from Herbert R. McClure, Associate Director, GAO, to Glenn M. Anderson, Chairman, Subcommittee on Surface Transportation (May 19, 1986).

Analysis

Since 1981 there has been a significant deterioration in the affordability and availability of insurance for motor carriers. This situation has recently taken on the characteristics of a crisis facing the motor carrier industry. The motor carrier industry is particularly hard hit by the insurance crisis because motor carriers are required by federal law to show evidence of financial responsibility to cover liability claims. Most motor carriers comply with this requirement by purchasing insurance. The law further provides that one form of liability for which motor carriers must secure coverage is environmental restoration. Motor carriers transporting certain hazardous materials in bulk must obtain $5 million worth of coverage, and these carriers in particular are adversely affected by insurers' unwillingness to provide the required coverage.

On June 18, 1986, in response to the insurance crisis confronting motor carriers, the FHWA published an interim final rule permitting certain for hire motor carriers, under certain conditions, to comply with the financial responsibility requirements by obtaining approval from the Interstate Commerce Commission to self-insure and by maintaining a satisfactory safety rating as assigned by the FHWA's Bureau of Motor Carrier Safety. 51 Fed. Reg. 22080 (1986). At the same time, the FHWA published an advance notice of proposed rulemaking requesting comments from the public concerning self-insurance generally as an alternative means of demonstrating financial responsibility as required by section 30 of the Motor Carrier Act of 1980. 51 Fed. Reg. 22086 (1986).

The term "environmental restoration" is not defined in the Motor Carrier Act of 1980; nor does the legislative history provide much guidance for the development of a definition for the term. The legislative history supports the argument made by petitioners that the Congress, in enacting section 30 of the Motor Carrier Act of 1980, did not intend to create a new basis for finding motor carriers liable for damages when they would not have otherwise been found liable.

In developing regulations to implement section 30, the FHWA found that the term "environmental restoration" required definition. General comments on this provision of the law, including comments received from insurers, indicated that this was a term with which insurers, in the context of the coverage that they typically provided to motor carriers, were not familiar. Insurers advised the agency at that time that claims to restore the environment (e.g., containment and cleanup costs) were typically paid under the property damage clause of the liability policies issued by insurers to motor carriers. In view of the ambiguity which appeared to exist with respect to the term, the FHWA, in its notice of proposed rulemaking, proposed a definition of "environmental restoration." 46 FR 8186, at 8193. This definition provided that "environmental restoration" included, among other things, ". . . (2) The cost of necessary measures taken to minimize or mitigate damage or potential for damage to the public health or welfare. . . ."

Representatives of the insurance industry, including petitioner AIA, objected to the definition proposed by the FHWA, but not on the grounds that it included the term "or potential for damage." On March 18, 1981, representatives of the AIA, the Insurance Services Office (an industry wide group providing technical assistance to the industry), the Travelers Insurance Company, Aetna Life & Casualty, and the Hartford Insurance Group, met with staff representatives of the FHWA and the Interstate Commerce Commission to express their concerns regarding the required environmental restoration coverage. This group offered an alternative definition which was placed in the public docket, made part of the AIA's formal comments submitted to the docket on March 26, 1981, and endorsed by The National Association of Insurance Brokers, Inc., in comments dated April 10, 1981. This definition was not opposed by any commenters, and was substantially adopted by the FHWA. The definition of "environmental restoration" provides, in part, that motor carriers must have in effect evidence of financial responsibility to cover the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health, the natural environment, fish, shellfish, and wildlife.

The record is clear that the phrase, "or potential for damage," was not the focus of the industry's objections to the original FHWA proposal. In their petition, the AIA and the ATA make clear that their concern with this phrase has its origins in recent insurance law developments which could not be foreseen by the industry or the agency when the original definition was adopted.

Petitioners argue that the inclusion of the phrase "or potential for damage" has led insurers to conclude, based on recent developments, that they are being asked to insure for unknown and unknowable potential damages which are merely speculative. Thus, such insurers are reluctant or unwilling to insure motor carriers in the amounts required by the law. The petitioners believe that the definition of "environmental restoration" adopted by the FHWA when the financial responsibility regulations were originally adopted may have unintentionally expanded the scope of recompensable liability. In this way, the petitioners believe that the regulatory definition of "environmental restoration" has exacerbated insurers' uncertainties. Section 30 of the Motor Carrier Act of 1980 was not intended to create a new basis for finding liability, but rather was intended to provide assurances that motor carriers found liable for damages under other law (e.g., State law or the common law) would have the financial means to pay for those damages. The change adopted today is consistent with this intent.

Because of the current insurance crisis, many motor carriers are being charged dramatically higher premiums or being denied coverage altogether by insurers concerned about a new basis for establishing liability grounded on the required "environmental restoration" coverage. Insurers surveyed by the General Accounting Office (CAO) told

the GAO that they object to writing environmental restoration coverage, particularly at the $5 million level, because there are too many unknown risks involved and they are unable to obtain reinsurance to help spread their risk. Insurers specifically advised the GAO that they considered the language describing the risk they are being asked to insure to be open-ended and not well-defined. It should also be noted that, as a result of its study, the GAO expects to see more new trucking firms obtaining the required insurance in the assigned risk market. The assigned risk market may also become the primary source of coverage for those required to maintain coverage at the $5 million level if their coverage elsewhere has been canceled. However, in four States, Hawaii, Maryland, South Carolina and Texas, insurance in the amount of $5 million is not currently available through the assigned risk market. In response to this emergency situation, the FHWA is amending its regulations to redefine "environmental restoration" to make clear that motor carriers are required to show evidence of financial responsibility adequate to satisfy claims for damage to the environment and necessary restoration costs, but not for damages for which they would not otherwise be found liable. We believe that any damage for which a motor carrier is found to be liable remains covered under the revised definition. The change is not intended to relieve the insurers of the obligation to pay for such damages. While the term "environmental restoration" is not intended to create liability, it is intended to guarantee that motor carriers are covered for damage claims for which they may be liable.

Regulatory Impact

The FHWA has determined that this action does not constitute a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation.

The FHWA believes that the current insurance crisis facing motor carriers is good cause to take immediate action. The difficulties engendered by the current crisis are affecting all motor carriers and require immediate attention if the agency is going to provide some measure of relief.

For the foregoing reasons, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act, 5 U.S.C. 553(b). The FHWA believes that clarifying the definition of the term "environmental restoration" so as to quiet the concerns of insurers, without making a substantive change in the required financial responsibility coverage or reducing public protection, will relieve motor carriers of an unnecessary burden. *See* 5 U.S.C. 553(d)(1). Accordingly, the regulation is effective upon publication.

Public Participation

The FHWA gives notice that comments on this rulemaking action will be accepted. The FHWA has determined that the emergency nature of the current insurance crisis as it affects motor carriers warrants immediate action. However, the FHWA wishes to afford the public with an opporutnity to provide comment and information for the FHWA's consideration in determining whether to make this change permanent.

Economic Evaluation

The FHWA assumes that the economic impact which results from this regulatory change will be generally beneficial to all motor carrier, in that the FHWA believes that this change will make insurance more available and more affordable to many motor carriers. The FHWA believes that this change will better enable insurers to assess risk and to establish prices which are reasonable in light of the coverage requested. No reduction in public protection will result from this change. The change will not affect protection afforded to the environment; neither the AIA nor the ATA have shown that actual awards have been made to injured parties under the language here being removed. The change, however, should ease the insurance crisis facing the trucking industry. The FHWA believes that the public will be adequately protected as motor carriers will be required to show financial responsibility for claims involving personal injury, property damage, and environmental restoration as now defined.

Because the classes of motor carrier operations subject to the FHWA's financial responsibility requirements under section 30 of the Motor Carrier Act of 1980 are somewhat different than the classes regulated for safety under the agency's other statutory authorities, and because the FHWA has not imposed a reporting requirement of motor carriers subject to its jurisdiction, the FHWA is uncertain of the number of motor carriers subject to the regulations and upon which this interim rule will have an impact. Preliminary estimates by the FHWA indicate that approximately 1 million commercial motor vehicles (trucks only) are subject to the requirements of the regulations adopted under section 30. It is further estimated that motor carriers currently pay approximately $7.1 billion in annual insurance premiums for personal injury, property damage, and environmental restoration for these vehicles.

List of Subjects in 49 CFR Part 387

Highways and roads, Insurance, Motor carriers, Surety bonds. (Catalog of Federal Domestic Assistance Program Number, 20.217, Motor Carrier Safety.

(49 U.S.C. 10927 note, 49 CFR 1.48 and 301.60))

Issued on: September 19, 1986.

R.A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, by amending Subpart A of Part 387 as set forth below.

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Subpart A—Motor Carriers of Property [Amended]

1. The authority citation for Part 387 continues to read as follows:

Authority: 49 U.S.C. 10927 note; 49 CFR 1.48 and 301.60.

2. Section 387.5 is amended by revising the definition for "Environmental restoration" to read as follows:

§ 387.5 Definitions.

* * * * *

Environmental restoration.— restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measure taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

* * * * *

3. Section 387.15 is amended by revising the definition for "Environmental restoration" in Illustration I to read as follows:

§ 387.15 Forms.

* * * * *

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

* * * * *

[FR Doc. 86-21690 Filed 9-22-86; 11:39 am]

BILLING CODE 4910-22-M

federal register

Tuesday
September 23, 1986

Part V

Department of the Treasury

Office of the Secretary

Treasury Notes of September 30, 1988 and 1990, Series AE-1988 and Q-1990; Notices

DEPARTMENT OF THE TREASURY

[Department Circular; Public Debt Series No. 30-86]

Treasury Notes of September 30, 1988; Series AE-1988

Washington, September 17, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of September 30, 1988, Series AE-1988 (CUSIP No. 912827 UA 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 30, 1986, and will accrue interest from that date, payable on a semiannual basis on March 31, 1987, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1988, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4 The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, September 23, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, September 22, 1986, and received no later than Tuesday, September 30, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt to tenders.

3.4. Commercial banks, which for this this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when

the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement or Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, September 30, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, September 26, 1986. In addition, Treasury Tax and Loan Note option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, September 30, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury direct must be completed to show all the information required thereon, or the Treasury direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment to the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisons of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 86-21665 Filed 9-22-86; 10:06 am]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series; No. 31-86]

Treasury Notes of September 30, 1990, Series Q-1990

Washington, September 17, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,500,000,000 of United States securities, designated Treasury Notes of September 30, 1990, Series Q-1990 (CUSIP No. 912827 UB 6), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 30, 1986, and will accrue interest from that date, payable on a semiannual basis on March 31, 1987, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1990, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other non-business day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, September 24, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 23, 1986, and received no later than Tuesday, September 30, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount.

Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuseday, September 30, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, September 26, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, September 30, 1986. When payment has been submitted with the tender and the purchaser price of the Note allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration on the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury direct must be completed to show all the information required thereon, or the Treasury direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 86-21666 Filed 9-22-86; 10:05 am]

BILLING CODE 4810-40-M

Reader Aids

Federal Register

Vol. 51, No. 184

Tuesday, September 23, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

31089-31308.....2
31309-31604.....3
31605-31756.....4
31757-31924.....5
31925-32046.....8
32047-32188.....9
32189-32296.....10
32297-32416.....11
32417-32622.....12
32623-32776.....15
32777-32888.....16
32889-33026.....17
33027-33232.....18
33233-33558.....19
33559-33732.....22
33733-33860.....23

CFR PARTS AFFECTED DURING SEPTEMBER

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.

3 CFR

Executive Orders:
10450 (See EO 12564).....32889
12333 (See EO 12564).....32889
12356 (See EO 12564).....32889
12532 (See Notice of September 4, 1986).....31925
12563.....32777
12564.....32889

Administrative Orders:
Notice:
September 4, 1986.....31925

Proclamations:
5519.....31309
5520.....31311
5521.....32047
5522.....32417
5523.....32419
5524.....32421
5525.....33027
5526.....33559
5527.....33561

5 CFR

Ch. XIV.....32623
293.....33233
831.....31927
2400.....33836
2412.....33836
2430.....33836

Proposed Rules:
Ch. XIV.....33840
300.....31954
2422.....33838
2423.....33838-33840
2424.....33845
2425.....33846
2429.....33838, 33840, 33846

7 CFR

0.....32904
1.....32189
2.....31757
226.....31313
247.....32895
301.....31605
400.....33237
402.....32903
403.....32903
409.....32903
410.....32903
411.....32903
413-433.....32903
435-451.....32903
729.....32049, 32620
908.....31758
910.....32423, 33239
920.....33563
991.....32779
1065.....32623
1079.....33564
1136.....31759
1137.....32056
1230.....31898
1421.....32297, 32624, 32626
1427.....32297
1464.....32424
1475.....31316
1747.....32428

Proposed Rules:
17.....32791
68.....32924
246.....32093, 32657
301.....31956
911.....32098, 32924
915.....32098, 32924
928.....33272
980.....33616
981.....32103
989.....32216
1036.....33273
1065.....31133
1068.....31133
1079.....31133
1137.....31340
1139.....32104
1940.....33763

8 CFR

212.....32294

Proposed Rules:
214.....31637

9 CFR

50.....33733
51.....32574
71.....32574
77.....33733
78.....32574
80.....32574
92.....32574
307.....32301
317.....33565
318.....32301
319.....32057
322.....31937
327.....32903
381.....32301

Proposed Rules:
92.....31637

10 CFR

50.....32904
51.....33224
171.....33224
477.....31316

Proposed Rules:
2.....31340
40.....32217

50 31341

12 CFR

Ch. V 33565
561 33565
563 ..... 33565, 33756
611 32431
709 33029
790 33588

Proposed Rules:

332 32336
563 32925

13 CFR

121 32197
123 32197
309 32628

14 CFR

21 31317
39 ..... 31089, 31090, 31607, 31608, 32198–32200, 32202, 32780, 32906, 33029–33031, 33240, 33736–33739
71 ..... 31097, 33590, 33591, 33739, 33740
73 33591
75 ..... 31097, 33591
91 31098
95 31319
97 ..... 31322, 32782
171 33176
1203 ..... 32783, 33241

Proposed Rules:

Ch. I 33061
21 ..... 31644, 32927
23 ..... 31644, 32927, 33700
29 33704
39 ..... 31133–31137, 31342, 31343, 31647, 31779, 32480, 33061–33065, 33277, 33617–33622
71 ..... 31138, 31648, 32410, 32480–32484, 33490, 33789
73 33790

15 CFR

4 32204
4b 32206

16 CFR

Proposed Rules:

4 32657
13 32485

17 CFR

200 32630
240 32630
241 33242
275 32906

Proposed Rules:

30 32929
150 31648
240 32658

18 CFR

389 32784

Proposed Rules:

37 ..... 31651, 31781

19 CFR

6 32448
111 ..... 31760, 32208
171 ..... 31760, 32208
178 ..... 31760, 32208

21 CFR

5 32451
14 32630
73 33032
74 32453
81 31323
175 31098
177 33248
178 ..... 31099, 31760, 32211
193 31324
331 32212
332 32212
357 31763
369 31763
510 31100
522 33591
558 ..... 31763, 32631
807 33032
1308 33592

22 CFR

41 32295

23 CFR

11 32453
655 32907

24 CFR

201 32059
511 31764
888 32908

Proposed Rules:

115 33278
278 32764

25 CFR

5 32631

26 CFR

1 ..... 31610, 31613, 32061, 32633, 33033, 33593
20 ..... 31938, 32071
25 31938
46 33593
51 33741
602 ..... 31610, 31613, 31938, 33593

Proposed Rules:

1 ..... 32664, 32929
602 32929

28 CFR

0 ..... 31939, 31940
2 ..... 32071, 32785
16 32305
544 32602

Proposed Rules:

16 31781

29 CFR

102 ..... 32918, 32919
220 32306
1601 32073
1620 32636
1910 ..... 33033, 33251
1956 32453
2200 32002
2619 32636
2676 32637

Proposed Rules:

97 32793
516 32744
2676 32637

30 CFR

901 31940
935 33034
938 31942

Proposed Rules:

733 31139
915 32644
917 32336
946 32106
948 ..... 32338, 33066

32 CFR

90 32308
199 31100
205 31325
286g 31103
292 33035
359 32309
706 ..... 31103–31112, 32312–32316, 33745
1286 33595

Proposed Rules:

40 31651

33 CFR

110 32317
117 ..... 31112, 31113, 31946, 32318, 32319, 33036
151 33037
158 33037
165 ..... 31113, 31114, 31946, 33039

Proposed Rules:

117 ..... 32339, 33067
161 32489
165 31958

34 CFR

674 33726

Proposed Rules:

614 31754
761 33218

35 CFR

251 33261
253 33261

36 CFR

2 33263
7 33040
13 ..... 31619, 33474
251 33040
800 31115
1254 31617

37 CFR

Proposed Rules:

1 32756
202 32665

38 CFR

Proposed Rules:

21 ..... 31782, 32667
36 33623

39 CFR

10 ..... 31325, 33041
111 33608
233 31328

Proposed Rules:

10 33792
111 31673

40 CFR

6 32606
51 32176
52 ..... 31125, 31127, 31129, 31328, 32073, 32075, 32176, 32638, 32640, 33264, 33746
60 ..... 32454, 32641, 32642, 33041–33046
61 ..... 32642, 33041–33046
65 33266
80 33730
81 ..... 32640, 33750
172 32920
180 32212
261 ..... 31330, 32458, 33612
271 ..... 31618, 33712
716 32720
721 32077
799 ..... 32079, 33047

Proposed Rules:

Ch. I 32668
50 32878
51 32180
52 ..... 32180, 33624, 33625
81 ..... 33626, 33627
86 ..... 31783, 31959, 32032
137 32886
260 ..... 31783, 33279
261 ..... 31140, 31783, 32217, 32670, 32929, 33067, 33279, 33628
262 ..... 31783, 33279
264 ..... 31783, 33279
265 ..... 31783, 33279
268 ..... 31783, 33279
270 ..... 31783, 33279
271 ..... 31783, 33279
721 32495
799 32107

41 CFR

Proposed Rules:

114–52 32796
201–33 31674

42 CFR

23 31947
124 33208
405 31454
412 31454

Proposed Rules:

57 ..... 31920, 32616
405 ..... 33074, 33086, 33640
447 33086

43 CFR

36 31619
2880 31764

Public Land Orders:

6592 (Corrected by PLO 6621) 32920
6621 32920

Proposed Rules:

2800 ..... 31886, 33279
2880 31886

44 CFR

64 ..... 31330, 33054
65 ..... 31635, 31950
67 31951
205 32642

Proposed Rules:

10 31788
67 ..... 31675, 31678

45 CFR

Proposed Rules:

1 33086

19.....33086

46 CFR

67.....33268
97.....33056
170.....33056
172.....33056

47 CFR

Ch. I.....32920
0.....31303, 32087
1.....31303, 32087
2.....31303
13.....31303
21.....31303
22.....31335
42.....32651
63.....31303
65.....32921
69.....33751
73.....32087, 32089, 32213, 32320, 32653, 32654
74.....32087
80.....31206
81.....31206
83.....31206
87.....31303
90.....31303
94.....31303

Proposed Rules:

2.....32222
15.....31147, 32222
25.....32223
64.....32113
67.....31149
68.....31149
73.....32113, 32114, 32224–32226, 32340, 33644–33646
76.....31147
80.....31306

48 CFR

5.....31424
7.....31424
13.....31424
16.....31424
19.....31424
24.....31424
31.....31424
45.....33270
47.....31424
50.....31424
52.....31424
223.....31765
228.....31765
242.....31765
252.....31765
522.....32654
552.....32654
553.....32654
914.....31335
933.....31335
952.....31335
970.....31335

Proposed Rules:

32.....31194
45.....31196
48.....31197
52.....31194, 31197
204.....33087
215.....33087
230.....33087
515.....31344
538.....31344
542.....32340
552.....31344
970.....32340
1317.....31687
1352.....31687
5316.....32114

49 CFR

1.....32320
387.....33854
571.....31765
1039.....32656, 32922
1152.....33612
1160.....33270
1312.....33752

Proposed Rules

391.....31150
393.....32115
533.....32802
1042.....32500

50 CFR

17.....31412, 33753
20.....31430, 32460
23.....31130, 32477
32.....32321, 33760
36.....31619, 32329
216.....32786
285.....32478, 33270
372.....33761
611.....32089, 32334, 33613
655.....31774, 31775
661.....32091
662.....32334
663.....31776
672.....33614
674.....32214, 3247
675.....32334, 33613
683.....32215

Proposed Rules

17.....33096
611.....32226, 32808
630.....31151
642.....32816
653.....33280
685.....32808

LIST OF PUBLIC LAWS

Last List September 19, 1986

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Just Released

Code of Federal Regulations

Revised as of July 1, 1986

Quantity	Volume	Price	Amount
	Title 40—Protection of Environment		
_____	Parts 1–51 (Stock No. 822–007–00120–8)	$21.00	$_____
_____	Parts 61–80 (Stock No. 822–007–00123–2)	10.00	_____
_____	Parts 100–149 (Stock No. 822–007–00125–9)	23.00	_____
_____	Parts 400–424 (Stock No. 822–007–00128–3)	22.00	_____
		Total Order	$_____

A cumulative checklist of CFR issuances appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA®

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		